

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF PENNSYLVANIA

QUANTUM COMMUNICATIONS, LTD, :  
Plaintiff :  
VS : AMENDED COMPLAINT  
: CASE NO. 1:17cv1640  
:  
EAGLE FORUM, EAGLE FORUM : (Honorable Yvette Kane)  
EDUCATION AND LEGAL DEFENSE :  
FUND, IAN A. NORTHON, ROETZEL :  
AND ANDRESS, LPA, and EDWARD :  
MARTIN, JR., : JURY TRIAL DEMANDED  
Defendants :  
:

\* \* \* \* \*

August 23, 2019

\* \* \* \* \*

Oral Deposition of Kevin Harley, held in the offices of PREMIER REPORTING, LLC, 112 Market Street, Harrisburg, Pennsylvania, 17101, commencing at 10:02 a.m., on the above date, before Colleen V. Wentz, RMR, CRR, a Professional Court Reporter and a Notary Public of the Commonwealth of Pennsylvania.

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1 P R O C E E D I N G S

2 (Proceedings commenced at 10:02 a.m.)

3 \* \* \* \* \*

4 KEVIN HARLEY, after having been duly  
5 sworn, was examined and testified as follows:

6 \* \* \* \* \*

7 EXAMINATION

8 BY MR. SCHLAFLY:

9 Q. Mr. Harley, are you here pursuant to a Notice  
10 of Deposition? I'll show you.

11 A I was asked to be here, so I'm here.

12 MR. SCHLAFLY: Okay. If you can mark this as  
13 -- how should we do the numbering? Off the record for a  
14 second.

15 (At this time, a discussion was held off the  
16 record and Harley Exhibit 1 was marked for  
17 identification.)

18 MR. SCHLAFLY: Usual stipulations.

19 BY MR. SCHLAFLY:

20 Q. I've shown you, Mr. Harley, what's Exhibit  
21 1, the Notice of Deposition. And have you seen that  
22 before?

23 A. No.

24 Q. Have you ever been deposed before?

25 A. Yes.

1 Q. About how many times?

2 A. Two or three.

3 Q. And is that while working for Quantum -- do  
4 you work for Quantum Communications?

5 A. I do.

6 Q. And were the other depositions while working  
7 for Quantum Communications?

8 A. No.

9 Q. Do you understand the procedure, then, of a  
10 deposition, and you're familiar with the process?

11 A. Yes.

12 Q. How long have you been working for Quantum  
13 Communications?

14 A. It will be six years this September.

15 Q. And in general, what are your job duties at  
16 Quantum Communications?

17 A. We're a strategic communications firm. We  
18 do issue advocacy and media. So I have a variety of  
19 clients. We do a lot of crisis communication. We also  
20 work on political campaigns, so we do all the media,  
21 television commercials, radio commercials, and digital  
22 direct mail for political campaigns. Issue advocacy, we  
23 do take -- take an issue or whatever it happens to be,  
24 and we build grassroots, grassstop support and do the  
25 media campaigns for those. And we also provide media

1 training for certain clients. We work for different  
2 associations. We have a variety of clients from Fortune  
3 500 to smaller businesses, associations.

4 Q. Do you describe -- does Quantum  
5 Communications describe its services on its website?

6 A. It does.

7 Q. And have you had a chance to look at what is  
8 on Quantum Communications' website?

9 A. I have.

10 Q. And is that information accurate?

11 A. To the best of my knowledge, it is.

12 Q. Have you had a chance to review the  
13 pleadings in this case?

14 A. Yes.

15 MR. SCHLAFLY: I'll introduce Exhibit 2.

16 (At this time, Harley Exhibit 2 was marked  
17 for identification.)

18 BY MR. SCHLAFLY:

19 Q. And have you seen Harley Exhibit 2 before?

20 A. Yes.

21 Q. And have you had a chance to review it  
22 before?

23 A. Yes.

24 Q. And is Harley Exhibit 2 the allegations by  
25 Quantum Communications in this case?

1 A. Yes.

2 Q. And to the best of your knowledge, are the  
3 allegations by Quantum Communications in Harley Exhibit  
4 correct?

5 A. Yes.

6 Q. Please direct your attention to paragraph 16  
7 on page 5 of Harley Exhibit 2. Please review that. Are  
8 the allegations in paragraph 16 on page 5 of Harley  
9 Exhibit 2 correct?

10 A. Yes. That's an accurate description.

11 Q. Please turn your attention to paragraph 17  
12 on page 6 on the same exhibit.

13 A. Yes.

14 Q. Are the allegations in paragraph 17 of this  
15 exhibit correct?

16 A. Yes.

17 Q. I'm going to ask you a number of questions  
18 now about this particular paragraph, and you've had a  
19 chance to review that paragraph as we sit here?

20 A. Yes.

21 Q. Can you provide any greater detail as to the  
22 date in which these allegations refer? It says here on  
23 or before October 21st, 2016. And as you sit here  
24 today, we're now several years after that. Can you  
25 provide any greater detail as to that date?

1           A.        Well, I think when I heard from Ed Martin  
2 about that, that was, like, what we -- it was a little  
3 bit of a shock, so we dealt with Ed and had a  
4 conversation with him around that time. And as  
5 paragraph 17 states, he agreed to the terms of the  
6 agreement. It was certainly our understanding at all  
7 times that Ian Northon had the authority, on behalf of  
8 Ed Martin, to enter in to an agreement with Quantum  
9 Communications.

10          Q.        I'd like to just focus for now on the date  
11 which has particular significance. And if you can't  
12 recall at this time, then you can't recall. But it says  
13 in the allegation. On or before October 21st, 2016.  
14 And is there any way -- is there anything you might look  
15 at to refresh your recollection as to what the  
16 particular date was that paragraph 17 refers to?

17          A.        I don't -- I don't have anything in -- with  
18 me today that I could -- I could narrow that down.  
19 There may have been a record of a phone call with Ed  
20 Martin or a set up of a phone call, but I don't have  
21 that data in front of me today.

22          Q.        Do you generally keep records --

23          A.        Not for phone calls, I don't. But we were  
24 in regular communication with Ed Martin at that time,  
25 so.

1 Q. And who would we be?

2 A. Charlie, myself, Ed Rollins, to a certain  
3 degree.

4 Q. And Charlie refers to Charlie Gerow?

5 A. Charlie Gerow, correct.

6 Q. Does paragraph 17, does it refer to one  
7 conversation, or does it refer to multiple  
8 conversations?

9 A. It's my recollection that when we were  
10 notified about paragraph 16, we dealt with that, and as  
11 is stated in paragraph 17. So I think it was one  
12 conversation.

13 Q. One telephone conversation?

14 A. To the best of my recollection, that's when  
15 it was -- the issue that Ed Martin raised was resolved.

16 Q. It was not an in-person meeting, for  
17 example?

18 A. It was not.

19 Q. I'll continue to have questions about this  
20 paragraph 17. Do you recall who was on that phone  
21 conversation?

22 A. I believe, to the best of my recollection,  
23 it was Ed Martin, Charlie, and myself. And I think we  
24 were discussing other issues, and this was one of the  
25 issues. That's my recollection.

1 Q. Anybody else on that phone call?

2 A. Not that I -- not that I can remember.

3 Q. And on your end of the phone call, would  
4 Charlie Gerow have been in the same room as you and you  
5 speaking on a speaker phone?

6 A. Yes.

7 Q. And would that have been here in these  
8 offices in Harrisburg?

9 A. Yes.

10 Q. How long was the conversation, to the best  
11 of your recollection?

12 A. I don't -- I don't remember. I think it was  
13 -- we were talking about other issues and other work  
14 that we were doing for them. And this was part of that.  
15 If it was in the beginning, middle, or the end, I can't  
16 -- I can't remember when it was raised.

17 Q. Do you recall whether you discussed specific  
18 terms of any agreement during that phone call?

19 A. It's my recollection that Ed agreed to  
20 continue with the original agreement and the fee  
21 structure.

22 Q. Do you recall agreeing to any specific terms  
23 about the scope of work?

24 A. No. That we were continuing to do work on  
25 behalf of Eagle Forum Legal Defense Fund and continue to

1 actually expand our work from -- we had many, many  
2 conversation about that over a period of time, including  
3 weekly telephone calls.

4 Q. Well, it says here that Martin agreed,  
5 comma, on behalf of Eagle Forum, comma. Is that  
6 correct?

7 A. Yes. Eagle Forum Legal Defense Fund,  
8 whatever -- whatever entity, you know -- internally, we  
9 referred to it as Eagle Forum because it was -- there  
10 was several different organizations. But just  
11 internally, that's how we would refer to it.

12 Q. But I'm asking you do you recall which  
13 entity?

14 A. It would have been the original entity that  
15 we had the agreement with, which, I believe, was Eagle  
16 Forum Legal Defense Fund.

17 Q. So are you saying that this statement here  
18 in paragraph 17 is incorrect then because at 17 --  
19 paragraph 17, it refers to on behalf of Eagle Forum.

20 A. I'm saying it should be whomever we had our  
21 original agreement with. That was -- things continued  
22 as they were. That was what I got from that  
23 conversation with Ed Martin.

24 Q. So it's your testimony, then, that it's not  
25 correct as stated here in your pleading, that Martin

1 agreed comma, on behalf of Eagle Forum.

2 MR. BUTKOVITZ: Object to form.

3 BY MR. SCHLAFLY:

4 Q. You can still answer the question. You're  
5 stating that's incorrect, as stated here, that Martin  
6 agreed, comma --

7 A. I'm not stating that it's incorrect. What  
8 I'm stating is that what Ed Martin agreed to is that we  
9 would continue with our original agreement and the terms  
10 of the original agreement that we had signed with Ian.

11 Q. I'm asking you on behalf of whom?

12 A. Well, it was -- we were representing  
13 whomever we were representing, which I believe was Eagle  
14 Forum Legal Defense Fund.

15 Q. So you're saying that Martin -- this is not  
16 quite correct, that Martin agreed on behalf of Eagle  
17 Forum?

18 MR. BUTKOVITZ: Objection. Asked and  
19 answered.

20 BY MR. SCHLAFLY:

21 Q. You can answer.

22 A. I'm not saying it's incorrect.

23 Q. The allegation that he agreed to terms of  
24 the original agreement, did those terms that Martin  
25 allegedly agreed to, did they include a right to

1 terminate the agreement?

2 A. I don't believe there was a conversation --  
3 that conversation didn't include -- we didn't discuss  
4 that.

5 Q. Did the terms include who was going to  
6 direct the work to be performed?

7 A. Ed was going to be -- had been and was  
8 continuing to be our point of contact. We would  
9 strategize, develop communication plans and -- with him,  
10 in coordination with him.

11 Q. Would he direct the work then? Would you  
12 work, pursuant to his instructions?

13 A. We would -- well, the way this would work,  
14 we would discuss things, strategize, and come up with  
15 ideas and plans, kick those around, and then execute.  
16 But he was -- he was the -- he was part of all of that,  
17 yes.

18 Q. What -- was the execution of these ideas  
19 dependent on his authorization?

20 A. Sure. We weren't going to do something that  
21 the client didn't want us to do. Absolutely.

22 Q. Were expenses to be preapproved?

23 A. Expenses, I'd have to go back and look at  
24 the original contract. Whatever expenses we -- I don't  
25 know that we would have a discussion about expenses.

1 Any travel or anything was put in to the original  
2 agreement.

3 Q. Was preapproval required for expenses?

4 A. I'd have to go back and look at the original  
5 agreement.

6 Q. Do you recall, as you sit here today in your  
7 discussion with Ed Martin, whether there was any --

8 A. I don't know that -- I don't remember having  
9 any discussion with Ed Martin about expenses. We did  
10 incur expenses -- travel expenses numerous times.

11 Q. And did you get preapproval for those travel  
12 expenses?

13 A. I -- I -- you can ask -- that's a question  
14 for Charlie. I don't know.

15 Q. So you did not obtain preapproval for  
16 expenses; is that right?

17 A. That is correct.

18 Q. Did you ever send any film or video to Ed  
19 Martin?

20 A. I did not.

21 Q. Did anyone at Quantum mechanics -- Quantum  
22 Communications send any film or video to Ed Martin?

23 A. I don't know.

24 Q. Who would know that?

25 A. I did not. You can ask Charlie. I don't

1 believe we did.

2 Q. Did you ever review any film or video?

3 A. Yes.

4 Q. What happened to it? Where is the film or  
5 the video now?

6 A. We have it.

7 Q. You have it. Did you send that film or  
8 video to anyone at Eagle Forum?

9 A. No.

10 Q. Did you ever refer any donors to Ed Martin?

11 A. I did not. Charlie may have.

12 Q. Is that something you've done for other  
13 clients, referred donors to them, potential donors?

14 A. It's not something that, you know, we  
15 typically -- we do not do fundraising. Typically, for  
16 our political campaigns, if I'm doing a political  
17 campaign, usually there's a fundraising aspect of it.  
18 If I run into somebody that is interested, I say well,  
19 you know, you might want to write a check to this or to  
20 that candidate, but --

21 Q. Okay. So for some candidates --

22 A. Yeah. This was not a candidate, though.  
23 This client was not a candidate. This candidate -- this  
24 client was not running for office.

25 Q. So it was not part of the scope of work for

1 -- for you to refer any potential donors to this client;  
2 is that your testimony?

3 A. In the initial -- yes, that is my testimony,  
4 that we did not -- I did not refer any potential donors  
5 to them.

6 Q. Did you ever obtain promotion in the media  
7 of Phyllis Schlafly or anyone associated with any of  
8 these entities?

9 A. I did not personally, but I believe that  
10 Charlie did.

11 Q. And what do you believe that Charlie did?

12 A. It's my understanding that he promoted her  
13 with -- and Ed Martin with -- in talking to different  
14 political reporters, national reporters.

15 Q. And did that ever end up in any published --

16 A. I'm not aware.

17 Q. Did you ever provide any e-mail lists to Ed  
18 Martin?

19 A. I believe that we did not provide him with  
20 e-mail lists, but this is more of a question for  
21 Charlie. We did promote heavily to build a crowd for  
22 their event in Washington the day after the  
23 inauguration. We e-mailed the invitation far and wide  
24 and made follow-up phone calls, got people in Washington  
25 to help generate a crowd for that event.

1           Q.       And did you receive any e-mails back from  
2 anybody in connection with that alleged work?

3           A.        We may have. I -- it's not -- that would --  
4 that would not have been part of my specific areas of  
5 responsibility.

6           Q.        Does Quantum Communications ever collect  
7 e-mail addresses in connection with its work?

8           A.        Yes.

9           Q.        And did Quantum Communications ever provide  
10 any e-mail addresses to Ed Martin?

11          A.        I don't -- you can ask Charlie this because  
12 he was more involved in this part with the conversations  
13 with Ed, but I think what we -- it's my recollection  
14 that we said that we would e-mail specifically that  
15 invitation that we designed to all of our people that we  
16 believed would be in Washington from Pennsylvania and  
17 other parts and to the Washington -- to a lot of the  
18 conservative activists in Washington. So we did that.

19          Q.        All right, but --

20          A.        That -- that would have been -- that would  
21 have been people that we had originally in our e-mail  
22 database.

23          Q.        Okay. Did you provide --

24          A.        So we were providing -- we were giving  
25 Eagle, Ed Martin, the benefit of our list.

1           Q.        But did you give Ed Martin or anyone  
2        associated with Ed Martin any of the actual e-mail  
3        addresses?

4           A.        Not that I'm aware of.  We may have.

5           Q.        Who may have?

6           A.        Well, somebody at Quantum may have.  I don't  
7        know that Ed ever asked for that.

8           Q.        Would they do it without your knowledge?

9           A.        They could.  But that wasn't -- you know,  
10        that wasn't -- I was not overtly involved in -- in  
11        contacting -- I wasn't involved in generating crowds for  
12        -- Quantum was -- but I was not personally doing that.  
13        There were other people in the firm that were working on  
14        that.

15           Q.        And what were their names?

16           A.        Charlie Gerow, Scott Stark designed it.  He  
17        had some younger people that were working, some of the  
18        younger females were making phone calls.  I believe that  
19        Charlie asked Bob Heckman, who's a conservative activist  
20        in D.C. -- I believe we even paid him -- to generate  
21        support and send a list.  And Heckman sent it to his  
22        people, as well, as I recall, to his own list.

23           Q.        Did you attend any of these events that  
24        you've described?  You just mentioned one in D.C.  Did  
25        you personally attend any of these?

1 A. I did.

2 Q. Did you attend the event in D.C. that Ed  
3 Martin had around the inauguration?

4 A. I just said I did.

5 Q. You personally attended it?

6 A. Yes. I was the first one there and I think  
7 the last one to leave. Although Ed Martin,  
8 interestingly enough, left about an hour before the  
9 event was over, which I thought was very strange.

10 Q. And did you recognize any other attendees at  
11 that event who were there because of any work done by  
12 Quantum Communications?

13 A. Yeah. Sure. They could have gotten  
14 invitations from different places, but certainly there  
15 were people there that we asked to come that came.

16 Q. And who did you recognize?

17 A. It was -- there were probably 130 people,  
18 140 people coming in and out, so, you know, I can't -- I  
19 can't recall at the moment everybody that I would have  
20 recognized at the reception. I've probably been to 200  
21 receptions since -- since that one.

22 Q. Do you recall anybody?

23 A. Anybody in the room?

24 Q. Whom was there because of work done by  
25 Quantum Communications?

1           A.        I think Bob Heckman, Grover Norquist was  
2 there.  There were -- there were -- there were a lot of  
3 people there.

4           Q.        And you're saying Grover Norquist was there  
5 because of what Quantum Communications --

6           A.        I'm not saying -- I'm saying Grover Norquist  
7 was there.  I'm assuming that we may have asked Grover  
8 to come.  I don't know.  He could have gotten five  
9 invitations for the event.

10          Q.        Okay.  So you don't know --

11          A.        All's I know --

12          Q.        -- what prompted --

13          A.        -- is Ed Martin was extremely nervous about  
14 not having a crowd because we put this together very  
15 quickly.  We aggressively put this out, sent it to  
16 everybody we knew, made probably hundreds and hundreds  
17 of phone calls to people asking them to come to this  
18 event.  The event was highly attended and I think  
19 considered, by Ed Martin, to be a success.

20          Q.        And as you testified earlier, attendance was  
21 about 130 or so; is that right?

22          A.        Listen, it was a reception.  People come;  
23 people go.  You know, you don't have to stay.  It's not  
24 like a dinner where you stay.  So people were coming in  
25 and leaving.

1 Q. And where was it held?

2 A. Joe's Steak and Crab Shack.

3 Q. So it was a room in a restaurant?

4 A. On the second floor of a restaurant. And we  
5 helped Ed decide the location, and we had a lot of phone  
6 calls with Ed about that, almost, probably daily,  
7 sometimes more than daily. And different  
8 responsibilities, within our firm, were divvied up, just  
9 like you would normally do.

10 Q. Did Quantum Communications reserve the room?

11 A. I can't -- I don't -- I don't remember.

12 Q. Did Charlie Gerow attend that?

13 A. Charlie was there, yes.

14 Q. Did you receive any feedback about that  
15 event?

16 A. I think from Ed.

17 Q. From anybody else?

18 A. Well, he was our client. That was the  
19 person that was most important. He was pleased with it,  
20 pleased with the work that we did to get -- as I recall,  
21 pleased with the hard work we did to get the attendance  
22 up.

23 Q. Did you receive any feedback from anybody  
24 else?

25 A. I didn't.

1 Q. Did you receive any RSVP's for the event?

2 A. I'm sure we did. I didn't -- again, that  
3 was not my area of responsibility.

4 Q. But you're sure that Quantum Communications  
5 received some RSVP's?

6 A. Listen, we sent out -- I'd have to look at  
7 the invitation. I don't know if the RSVP's went to  
8 somewhere else or they went to us or people on the phone  
9 said they were coming. I can't -- I can't recall. This  
10 is how you do events. You get people to come. You  
11 didn't have -- I don't even know if you had to RSVP. I  
12 can't remember.

13 Q. Did the event make money?

14 A. I don't know if it made money because I  
15 don't think they charged anything for it.

16 Q. So it was a money loser?

17 MR. BUTKOVITZ: Objection. Form.

18 THE WITNESS: I don't know if it was -- I  
19 don't think the purpose of the event was to make money.

20 BY MR. SCHLAFLY:

21 Q. Well, I'm not asking you what the purpose of  
22 the event. I'm just asking --

23 A. Usually, when you do a political reception  
24 like that, the -- there is a cost involved. But the  
25 cost is to increase your profile or increase your

1 network, and that is why people do that.

2 Q. I appreciate the comments, but I'm just  
3 asking you, did the event lose money?

4 A. How would -- I have no -- I don't know if it  
5 lost money.

6 Q. Well, you said they didn't charge anything,  
7 so presumably, it lost money, right?

8 A. Well --

9 MR. FINA: Objection.

10 THE WITNESS: I guess it depends on your  
11 definition of lost money.

12 MR. SCHLAFLY: I'll take that as ambiguous,  
13 but I'll move on.

14 BY MR. SCHLAFLY:

15 Q. Did you attend the Reagan dinner at CPAC in  
16 February of 2017?

17 A. No.

18 Q. Did you do any work in connection with the  
19 Reagan dinner at CPAC --

20 A. No.

21 Q. -- in February of 2017?

22 A. No. Charlie did that. He's the vice  
23 chairman of the American Conservative Union and is very  
24 involved in CPAC.

25 Q. So it's your testimony you had no

1 involvement with that particular event?

2 A. Correct.

3 Q. If you could return to Exhibit 2, and there  
4 are a few other projects that are alleged here. And  
5 I'll just ask if you had any involvement in these other  
6 projects. And if you did, I'll follow up.

7 So for example, in paragraph 27, there's a  
8 reference to the quote DeFund Berkeley, close quote  
9 campaign. Did you have any involvement in that alleged  
10 project?

11 A. I did not.

12 Q. Do you know who did?

13 A. Charlie and Brandon Posner.

14 Q. Is Brandon Posner still with Quantum  
15 Communications?

16 A. No, he's not.

17 Q. Do you know where he moved on to?

18 A. I think he is at -- he's at one of the big  
19 accounting firms.

20 Q. Does he have an accounting background?

21 A. I think he's got a Masters in Business from  
22 William and Mary.

23 Q. Is it your testimony that Charlie Gerow and  
24 Brandon Posner worked on the DeFund Berkeley campaign?  
25 Is there anyone else, in addition to those two, who

1 worked on that?

2 A. Well, you'd have to ask Charlie. Scott  
3 Stark may have been involved, too. I think he probably  
4 did in terms of getting some of the Facebook things.  
5 But I don't know that for certain. It may have been  
6 Brandon that did that.

7 Q. And do you have any knowledge of what work  
8 product was delivered to Ed Martin or anyone affiliated  
9 with Ed Martin in connection with this project?

10 A. I mean I recall seeing some of the stuff and  
11 knowing that it went pretty well. I mean it was a very  
12 quick campaign in reaction to some of the stuff that was  
13 going on at Berkeley at the time. And so we quickly put  
14 that together for Ed. And -- but I was not overtly  
15 involved in it.

16 Q. Are you aware of any finished product that  
17 was delivered to Ed Martin or anyone else in connection  
18 with this project, such as e-mail addresses, that would  
19 have been gathered by the project?

20 A. I'm not sure that the project was -- that  
21 was the purpose of the project, but I'm not -- I'm not  
22 aware of it. I know that Ed was updated on what was  
23 happening, just in conversations I had with Charlie.

24 Q. If you look at paragraph 25, it makes  
25 reference to film crew traveling to Washington D.C. to

1 interview Ambassador Faith Whittlesey. Do you have any  
2 knowledge of that?

3 A. I have knowledge of it. I did not -- I did  
4 not go.

5 Q. What's your knowledge of that allegation?

6 A. My knowledge of that allegation is that as  
7 part of the film project that we were working on, that  
8 in conversations that Ed and Charlie had, that having  
9 Faith Whittlesey talk about the legacy of Phyllis  
10 Schlafly and the ongoing work of Eagle Forum would be a  
11 positive thing. So Charlie went down with film crew and  
12 interviewed Ambassador Whittlesey.

13 Q. Did you ever see any of the film?

14 A. I don't know that I did. I may have.

15 Q. Okay. So you don't recall specifically  
16 watching any of the film?

17 A. Specifically her? I don't -- I don't -- you  
18 know, I may have. I've looked at a lot of film, so I  
19 may have seen her. I can't remember.

20 Q. Is there a reason -- I believe you testified  
21 earlier that you never provided any film to Ed Martin.  
22 Is there a reason why none of this film was provided to  
23 Ed Martin?

24 MR. BUTKOVITZ: Objection to form.

25 BY MR. SCHLAFLY:

1           Q.        Okay. I'll strike that. Was this film ever  
2 provided to Ed Martin?

3           A.        No.

4           Q.        Is there a reason why it was never provided  
5 to Ed Martin?

6           A.        I think the reason might be why we're here  
7 today.

8           Q.        I'm just asking.

9           A.        Yeah. Well, one, we had put together, you  
10 do the film, it's raw footage; it gets produced and  
11 edited. And then we show the client basically drafts.  
12 And then you go back and forth. That's how -- that's  
13 how these things are done. But the fact that Ed Martin  
14 had refused to pay us what we're owed for our work is  
15 why he never got the finished product. I think that's  
16 pretty straightforward and simple.

17          Q.        Is -- is that in any e-mail anywhere that  
18 you've ever seen that --

19          A.        I believe it is in an e-mail.

20          Q.        Is it?

21          A.        I believe, yes. When we were trying to  
22 collect our money from Ed Martin over a long period of  
23 time, I believe that is in an e-mail. That's my  
24 recollection.

25          Q.        Did -- would it have been an e-mail that you

1 had written or someone else had written? I'm asking.  
2 I'm -- I'm generally wondering.

3 A. I believe that it was an e-mail back and  
4 forth with Charlie and Ed. That's my recollection.

5 Q. Where -- where you or Charlie said we've got  
6 this film and --

7 A. We were going to finish it. It's like, you  
8 know, we weren't getting paid. We were supposed to be  
9 getting paid from September.

10 Q. Okay. I need to cut you off.

11 A. And we go in to January, and we're still not  
12 paid. And they didn't pay our -- he said he would pay  
13 our expenses and -- and everything going to Saint Louis.  
14 We incurred expenses hiring a film crew, did the event  
15 in Saint Louis. And then Charlie went down after that  
16 and did the interview with Faith Whittlesey, and we had  
17 -- and that's where -- that's where things are. I don't  
18 know that that's that complicated.

19 Q. Is that in an e-mail somewhere that Ed, if  
20 you'd just -- if you'd pay us, we'll get you this film?

21 A. You can talk to Charlie more specifically  
22 about that because he's the one that was communicating  
23 with Ed specifically on getting the money that we were  
24 owed and -- and the film project.

25 Q. Did you produce e-mails in this action?

1 A. Did I?

2 Q. Yeah.

3 A. No.

4 Q. Did you give e-mails to your attorney?

5 A. Did I give e-mails?

6 Q. Yeah.

7 A. I gave e-mails to my attorney.

8 Q. Did you give an e-mail that asks this  
9 information you're talking about?

10 A. It wasn't my e-mail, so.

11 Q. But you received e-mail, I would assume?

12 A. You can -- you can ask Charlie more  
13 specifically about that conversation and e-mail exchange  
14 that he had with Ed Martin about that.

15 Q. And I'll ask Charlie. I appreciate that  
16 advice. I can handle my questions to Charlie. I'm  
17 asking you questions about what you know and what you've  
18 seen and what you've produced.

19 By this time, February 2nd, 2017, you had  
20 not been paid anything; is that right?

21 A. That's my understanding.

22 Q. And yet you continued to incur expenses; is  
23 that right?

24 A. That's right.

25 Q. Did you get preapproval for those expenses?

1           A.        We did.  We got preapproval from Ed Martin  
2 to go do the interview -- to come -- to come to Saint  
3 Louis and then go down to -- to go interview Faith  
4 Whittlesey.  We didn't make it up and just decide to go  
5 down and say hey, I've got a great idea.  We'll go down  
6 and interview Faith Whittlesey, and then hey, by the  
7 way, Ed Martin, we went and interviewed Faith  
8 Whittlesey.  That's not how -- that's not how it works  
9 in our business.

10          Q.        That's not how it works.  Okay.  That's  
11 fine.  Did Ed Martin agree to pay some amount for this  
12 allegation in paragraph 25?

13          A.        You can talk to Charlie about that.  But we  
14 -- we would not have done that without the approval of  
15 Ed Martin.

16          Q.        And did you give him an estimate of how much  
17 expenses would be?

18          A.        You can talk to Charlie about that.  I  
19 wasn't involved in the Faith Whittlesey one.

20          Q.        That's fine.  I appreciate you just  
21 answering the question, though.  You've said that now a  
22 dozen times.

23          A.        Well, I'm just trying to --

24          Q.        If you know -- I asked you, did you give Ed  
25 Martin --

1 A. I did not.

2 Q. Thank you.

3 A. I did not give -- I did not have a  
4 conservation with Ed Martin about that.

5 MR. FINA: Just for the record, he has asked  
6 and answered those questions repeatedly. So you don't  
7 need to direct him --

8 MR. SCHLAFLY: I'm sorry. I'm sorry.

9 MR. FINA: -- on the way he should answer  
10 the questions.

11 MR. SCHLAFLY: I'm sorry, but that's the  
12 first time I've asked him that question, Frank.

13 MR. FINA: It is not. You've asked him,  
14 he's answered what communications he's had about Faith  
15 Whittlesey and that -- that work over and over again.  
16 And he's told you repeatedly that he was not involved  
17 and that Charlie Gerow handled that.

18 MR. SCHLAFLY: The record will reflect  
19 that's the first time I asked that question. Rather  
20 than simply answering yes or no, he said talk to  
21 Charlie.

22 THE WITNESS: I'm just trying to be helpful  
23 to you, but --

24 MR. SCHLAFLY: Thank you.

25 BY MR. SCHLAFLY:

1           Q.        Okay. The next allegation in paragraph 26,  
2 there's an assertion that Martin reassured QC that he  
3 would pay the outstanding invoices.

4                   Does that refer to you?

5           A.        It's QC. I think you know that that refers  
6 to Quantum Communications.

7           Q.        I do. But I'm asking you, did Martin  
8 reassure you --

9           A.        No.

10          Q.        -- that he would --

11                   Was there any understanding between you and  
12 Ed Martin as to the time it would take to perform on  
13 some of these tasks, such as editing the film? You're  
14 thinking about the answer?

15          A.        Yeah. I'm trying to think if we ever  
16 provided a time line. I think -- you know, it's my  
17 recollection in the conversations, the multiple  
18 conversations we had about the film project is that it  
19 would -- you know, once we got all the interviews done,  
20 all the legacy video kind of edited, what we could use,  
21 what we couldn't use, that it would probably be, you  
22 know -- I don't know that there was -- Ed ever said he  
23 needed it by a certain day. But, you know, usually it  
24 would be a couple of months.

25          Q.        And was that part of any agreement, any

1 terms of an agreement that you ever discussed with Ed  
2 Martin?

3 A. I think, you know, in terms of the video  
4 project or the film project, that was all done verbally  
5 with Ed Martin.

6 Q. And I'm asking you if you had any verbal  
7 conversations with Ed Martin about how long it would  
8 take for you to complete any film project?

9 A. I did not have any -- I, personally, did not  
10 have any conversation with Ed Martin about that.

11 Q. Do you have any knowledge about the filming  
12 that was allegedly done in Saint Louis?

13 A. Yes.

14 Q. Okay. And what do you know about that?

15 A. Well, I was there.

16 Q. Did you observe the film crew interview  
17 anybody?

18 A. Yes.

19 Q. And about how many people did they  
20 interview?

21 A. It was about five -- five or six. I can't  
22 remember. I'd have to go back and go through the  
23 archives, go through the notes. These were primarily  
24 all people that Ed suggested that we interview. We also  
25 went to your mother's house and got B-roll there.

1 Q. And if you can explain what a B-roll is?

2 A. B-roll is just film that you use to fill.

3 Q. And did you view any of that film?

4 A. I viewed some of it that day and some of it,  
5 I believe, at the studio.

6 Q. Where's the studio?

7 A. It's over in Camp Hill.

8 Q. And was there any editing done on that film?

9 A. They started to edit, yes.

10 Q. And was any of that have film ever shown to  
11 Ed Martin?

12 A. No. I might add that we also interviewed Ed  
13 Martin at the -- in Saint Louis.

14 Q. Do you still have that film today?

15 A. Yes. And there was -- we had suggested  
16 interviewing -- there was somebody -- I don't know if it  
17 was you or your brother that was there, and we asked Ed,  
18 should we get one of the family members. And Ed  
19 strongly suggested that we don't.

20 Q. Is there still more work to do before that  
21 film would be considered a finished product?

22 A. There is still work to be done.

23 Q. And is that true for the interview of Faith  
24 Whittlesey, too?

25 A. It probably needs to be finished in terms of

1 the editing and the production.

2 Q. Do you have any idea how much more work  
3 would need to be done?

4 A. I don't know. I'd have to go back and look  
5 at it. I haven't looked at it for over two years.

6 MR. SCHLAFLY: Off the record.

7 (A discussion was held off the record.)

8 BY MR. SCHLAFLY:

9 Q. And you have the Faith Whittlesey film also,  
10 right?

11 A. Yes.

12 Q. Is there any other project that you recall  
13 working on --

14 A. Yes.

15 Q. -- in connection --

16 A. I wrote -- I drafted numerous press releases  
17 early on with Ian, talking to Ian about different -- as  
18 I recall, there were lots of different court proceedings  
19 and different jurisdictions and things were moving  
20 pretty quickly. So I talked to Ian and Charlie and  
21 consulted with Ed Rollins and drafted press release, get  
22 it back to -- suggested press releases, draft press  
23 releases, suggested language, get those back to Ian.

24 Q. And you say numerous. What do you mean by  
25 numerous?

1           A.       More than a couple. Three, four. I can't  
2 remember. Ian would call and say hey, this is what's  
3 coming up. We've got to be prepared for this. Or this  
4 just happened, here's what happened.

5           Q.       And just to clarify your answer, you said  
6 three or four?

7           A.       I'd have to go back and look.

8           Q.       And I understand. I understand. But about  
9 three or four --

10          A.       I don't know. I -- numerous press releases.  
11 How about that.

12          Q.       Well, okay. Less than 10?

13          A.       I'd have to go back and look.

14          Q.       Any idea? Less than 1,000?

15          A.       Less than 1,000.

16          Q.       Okay. Less than 50?

17          A.       Less than 50.

18          Q.       Less than 20?

19          A.       Less than -- less than 20.

20          Q.       Less than 10?

21          A.       I'd have to go back. I don't know. There  
22 were numerous press releases and drafts and going back  
23 and forth.

24          Q.       Any other project that you worked on --

25          A.       Well --

1 Q. -- in connection with this matter?

2 A. -- you know, in multiple weekly  
3 conversations, sometimes more than weekly conversations  
4 with Ed Martin, he wanted to basically have us develop a  
5 strategic communications plan for him and his  
6 organization, which we spent a lot of time brain  
7 storming on that. And that's part of -- and as part of  
8 that, he wanted a film project. We gave him some ideas  
9 on how we could modernize the organization. And we  
10 spent a lot of time working on that, coming up with  
11 ideas that we thought would be effective how he could  
12 communicate basically taking Eagle Forum in to the  
13 digital age.

14 Q. Did you provide a strategic plan?

15 A. Yes. And we wrote him a detailed memo.

16 Q. About when was that?

17 A. It was October, November. I'd have to go  
18 back and look.

19 Q. Did you -- were you involved in providing  
20 invoices?

21 A. No.

22 Q. Do you have any knowledge about the  
23 invoices?

24 A. I know they were sent and not paid.

25 Q. Did the invoices describe any work done?

1           A.        I'd have to go back and look at the  
2 invoices. I'm sure it said for professional services is  
3 what usually our invoices say.

4           Q.        When you do work for other clients, do your  
5 invoices sometimes include work done?

6           A.        It's my understanding that most of our  
7 invoices say for professional services.

8           Q.        Without --

9           A.        Or a specific -- yeah. Yeah.

10          Q.        Without any detail of actual work done?

11          A.        Yep. Or communication with our clients on  
12 the work that's being done. The invoice says for  
13 professional services.

14          Q.        Do you do work for any charities?

15          A.        We do work for nonprofits. Is that a  
16 charity?

17          Q.        Well, it depends on what kind of nonprofit.  
18 What kind of nonprofits do you work for?

19          A.        We work for nonprofit associations.

20          Q.        Do you work -- do you do any work for 501c3  
21 organizations? And do you understand what I mean?

22          A.        Yeah, I understand. Some of the groups that  
23 we work with have a 501c3.

24          Q.        Do you ever invoice 501c3 organizations  
25 without describing what work was done?

MR. BUTKOVITZ: Objection. Are you referring to organizations other than Eagle Forum Education Legal Defense Fund?

BY MR. SCHLAFLY:

Q. Any other organizations?

A. I don't do the invoices, so normally our invoices say for professional services.

Q. So you have no knowledge of sending an invoice like that to a section 501c3 organization?

A. Not to my knowledge.

Q. I'm sorry. You have to --

A. No.

Q. I'm just not -- just off the record.

(At this time, a discussion was held off the record.)

BY MR. SCHLAFLY:

Q. Okay. I want to refer to this Exhibit 34 that was used in the last deposition. So hopefully you all have this.

MR. BUTKOVITZ: Can you identify it on the record by Bates number?

BY MR. SCHLAFLY:

Q.        Yeah.   Exhibit 34 was used in the deposition of Ed Martin, and bate stamps QC 1 through QC-104.   And here's a copy for the witness.

MR. BUTKOVITZ: Just to be clear, the exhibit is the entire --

MR. SCHLAFLY: Yes.

MR. BUTKOVITZ: -- QC production?

MR. SCHLAFLY: And that's how it was introduced at Ed Martin's deposition, actually, by your CoCounsel.

BY MR. SCHLAFLY:

Q. I'm not going to ask you to review this whole exhibit, but I would like to direct your attention to several invoices that are in it. And here's an invoice. QC-22. Have you ever seen that invoice before?

A. I may have reviewed it in -- in looking at documents. But it wouldn't have been something that I would have normally had to see in the regular course of my, you know, daily responsibilities.

Q. So you do not ordinarily review invoices before they're sent out?

A. No. I mean if we get a new client, you know, I would talk to the person who's preparing the invoice and say what the invoice, who it's to, how much it is, and what it's -- you know, what it's for. Sometimes it you could be -- if it's, for example, if we're doing a print job and you have a separate invoice

1 for that, you could say printing on top of your  
2 professional services, if that was added on. I would  
3 just give them the numbers, but I don't typically review  
4 the invoice.

5 Q. Is this invoice addressed to the correct  
6 person?

7 A. As far as I know. That's who I believe we  
8 were told to invoice. I think Ian told us to invoice  
9 him.

10 Q. In your Amended Complaint, which is Exhibit  
11 2, your allegation is that, On or about October 13,  
12 2016, Ed Martin, President of such-and-such, contacted  
13 and informed Kevin Harley, such-and-such, that Ian  
14 Northon was not authorized to sign the agreement.

15 And here, the invoice is dated November  
16 18th, 2016 for the period of November, 2016, and you're  
17 invoicing Ian Northon; is that correct?

18 MR. FINA: I'm going to object to that  
19 question. It's -- it's inconsistent with his prior  
20 testimony. It's inconsistent with the facts in these  
21 documents.

22 BY MR. SCHLAFLY:

23 Q. Approach -- approach the witness. Is this  
24 correct, invoicing Ian Northon on November 18th, 2016,  
25 in light of your allegations?

1 A. Say this again?

2 Q. Is this correct, for you to invoice Ian  
3 Northon --

4 A. Listen. Again, I'll make this clear. I  
5 didn't -- I didn't do the invoices. Okay. I did work.  
6 I didn't do the invoices. That's -- it would be more  
7 the back office operation that did the invoices. I  
8 didn't do the invoices. I wasn't -- so --

9 MR. SCHLAFLY:

10 Q. Okay.

11 A. So I wouldn't -- you know, I've seen it  
12 probably after the fact. But I didn't see it when it  
13 went out.

14 Q. But did Ed Martin tell you on October 13th,  
15 2016, Ian Northon was not authorized to sign the  
16 agreement?

17 A. I think it's -- you can revert to my prior  
18 testimony on -- on what Ian Northon, what -- our  
19 conversation with Ed Martin post that -- whatever  
20 paragraph that was in the Complaint, 17 or whatever that  
21 was. I think that -- that answers it.

22 Q. So you have no opinion whether this invoice  
23 is correct or not; is that right?

24 A. I have an opinion that we were owed money  
25 that we weren't paid. I have an opinion on that.

1                   Q.        Right.  Okay.  Do you have an opinion  
2 whether this invoice was addressed to the correct  
3 person?

4                   A.        I don't.

5                   Q.        And the description of the invoice, it says  
6 fee for agency services in support of Eagle Forum,  
7 November of 2016; is that correct?

8                   A.        That's what it says.

9                   Q.        And what you know now, as you look at that,  
10 is that a correct description of your work?

11                  A.        For agency services and support, yeah.  
12 That's it.

13                  Q.        Is it your view that you were owed \$20,000 a  
14 month whether you did any work or not?

15                  A.        We had a retainer for \$20,000 a month.

16                  Q.        And is it your view that you were owed that,  
17 regardless of whether you did any work?

18                  A.        That was the agreement, that we would be  
19 paid \$20,000 a month.

20                  Q.        Regardless of whether you did any work?

21                  A.        Well, we did work.

22                  Q.        Did you do an equal amount of work in each  
23 of these months?

24                  A.        Sure.

25                  Q.        Really?  Same amount of work in each of

1 these months?

2 A. Listen, we had an agreement for \$20,000 a  
3 month. It wasn't -- we didn't do itemized billing. We  
4 weren't -- the agreement did not require us to bill  
5 against the retainer, nor did it say that you had to  
6 keep hourly time logs. It was for \$20,000 a month. We  
7 -- our business, we set up all of our clients pay a  
8 monthly retainer. That's how it works.

9 Q. Is that true for all of your clients?

10 A. I believe it is true for all of our clients.

11 Q. Political candidates, too?

12 A. Some campaigns we get a monthly retainer  
13 when we were doing management services or strategic  
14 consultation. Some campaigns will come to us and just  
15 say, you know, we want a direct mail piece and nothing  
16 else. So we'll do that. And then just bill them the  
17 cost plus -- we add in our -- we add in our cost. But  
18 typically, when we are involved in a campaign, we take a  
19 monthly retainer. I would say probably nearly all the  
20 campaigns -- nearly all, particularly if it's a  
21 significant political campaign, we get a monthly  
22 retainer.

23 Q. But there's some for which you do not do  
24 business that way, right?

25 A. Very few. Right.

1 Q. But there's some, right?

2 A. Yeah. But -- yeah. And that's also -- that  
3 would be in an agreement. A political campaign, again,  
4 is different than doing a strategic communication plan  
5 and executing that for a client. This is -- this was  
6 not a political campaign.

7 Q. And the agreements, you reference, with  
8 these other clients, were they typically in writing?

9 A. Yes.

10 Q. Do you have any oral agreements with other  
11 clients of the magnitude of \$20,000 a month on retainer?

12 A. You can talk to my business partner about  
13 that. But I believe we have had oral agreements for  
14 significant amounts of money, yes.

15 Q. And what percentage of your clients would  
16 you operate on an oral agreement for \$20,000 a month?

17 A. Well, the clients that I bring in, we have  
18 an agreement. We had an agreement with Eagle Forum.

19 Q. Are you referring to a written agreement?

20 A. Yeah.

21 Q. So clients you work with, you do not have an  
22 oral agreement for \$20,000; is that right?

23 A. Typically we have a written agreement, as we  
24 had in this case.

25 Q. Just answer my question.

1           A.        I did. I said typically, we have an  
2 agreement, as we had in this case. I think that  
3 answered your question.

4           Q.        Do you have any clients whom you work with,  
5 whom you have an oral agreement of a magnitude of  
6 \$20,000 a month?

7           A.        I personally do not.

8           Q.        And are you aware of Quantum  
9 Communications's having any relationship with any client  
10 of the magnitude of \$20,000 a month on retainer on an  
11 oral, rather than a written basis?

12          A.        You could check with --

13          Q.        No, no. Don't ask me that. I'm asking if  
14 you are aware?

15          A.        I'm not aware. But again, I might add, we  
16 had a written agreement.

17          Q.        A written agreement that Ed Martin told you  
18 was invalid, correct?

19          A.        And that he would continue to abide by the  
20 agreement.

21          Q.        And why would he do that? What's your  
22 understanding of why someone would tell you that the  
23 written agreement is invalid. And then days later, tell  
24 you it was valid? Why would somebody do that?

25           MR. FINA: Objection. Objection.

1 BY MR. SCHLAFLY:

2 Q. To the best of your knowledge. Did he  
3 explain -- did Ed tell you why he would do that,  
4 invalidate a written agreement and then days later say  
5 it was valid?

6 A. Well, he never invalidated the agreement.

7 Q. Well, let's go back and look at paragraph  
8 16, in Exhibit 2.

9 A. I read it. Ed agreed to continue with our  
10 agreement, including the terms of the agreement --

11 Q. In paragraph 16.

12 A. -- which is the \$20,000 a month.

13 Q. Paragraph 16, it says that, Ed contacted and  
14 informed you that Ian Northon was not authorized to sign  
15 the agreement; is that correct?

16 A. That is correct.

17 Q. And it's your testimony a few days later --  
18 not on the same day, right? Or is it your testimony the  
19 same day?

20 A. I don't -- I don't recall.

21 Q. You don't recall.

22 MR. BUTKOVITZ: Objection. What's the  
23 question?

24 THE WITNESS: Yeah. Did we --

25 MR. BUTKOVITZ: Hold on one second. There's

1 a lot of compound here.

2 MR. SCHLAFLY: He understood that question.

3 MR. BUTKOVITZ: Okay. Well, I didn't. The  
4 record maybe did not.

5 BY MR. SCHLAFLY:

6 Q. Okay. Well, let's turn on to paragraph 17  
7 where you say that Martin allegedly agreed on behalf of  
8 Eagle Forum.

9 Was that in the same conversation you  
10 referred to in paragraph 16 on October 13th?

11 A. I thought I answered all of this before in  
12 your -- in the beginning. What happened is I got the  
13 e-mail. Then we ended up talking to Ed about it. And  
14 he said -- he agreed to go forward. That's --

15 Q. I'm asking you if it was on the same day.

16 A. I don't know if it was on the same day. If  
17 it wasn't the same day, it was close to it.

18 Q. And did Ed explain why he would do that? I  
19 mean I don't understand -- did you ever understand what  
20 the purpose of that was, to invalidate and then  
21 reinstate it orally?

22 MR. FINA: Objection.

23 MR. BUTKOVITZ: Objection. It  
24 mischaracterizes the allegations, as well as the  
25 testimony. He never said that he invalidated the

1 agreement. I believe his testimony was that he was  
2 notified that Mr. Northon was not authorized to enter  
3 into it, and then subsequently, Mr. Martin corrected  
4 that issue by authorizing the agreement.

5 BY MR. SCHLAFLY:

6 Q. I'm asking the witness -- I'm asking you if  
7 Ed Martin explained to you why he would do what you're  
8 alleging he did?

9 A. In the subsequent conversation that we had  
10 with Ed Martin, I don't remember the details of why Ian  
11 was or was not authorized. But the important part, from  
12 my perspective, was that we were going to continue on  
13 with our services and fee structure.

14 Q. I'm asking you if Ed Martin explained to you  
15 why he was allegedly doing it that way?

16 A. Didn't I just answer that question?

17 Q. No, you didn't. Did he explain to you why  
18 he was allegedly doing it that way?

19 A. I cannot recall the specifics of the  
20 conversation of why or why not Ian may or may not, in  
21 his mind, have been authorized to do it. I don't know  
22 if things changed. I don't know. All's I know is that  
23 he said -- the most important part of the conversation  
24 that I was interested in is that we were going to  
25 continue our work for Eagle, working with Ed, and the

1 terms of the agreement.

2 Q. And in that conversation, were there any  
3 representations about when work product would be  
4 provided to Ed?

5 A. We were providing him work product.

6 MR. FINA: I'm going to object. Asked and  
7 answered. He's already -- you've already asked him  
8 about whether there were deadlines, when stuff was going  
9 to be produced, and he's answered this question.

10 MR. SCHLAFLY: I have not asked this  
11 question before. Are you instructing the witness not to  
12 answer this question?

13 MR. FINA: You have asked this question  
14 before.

15 MR. SCHLAFLY: I have not asked this  
16 question before.

17 MR. FINA: Yeah. Don't answer the question.

18 MR. SCHLAFLY: Okay. Are you asking the  
19 witness not to answer? Are you taking your attorney's  
20 advice not to answer this question?

21 THE WITNESS: Yes. Yes.

22 MR. SCHLAFLY. Read my question back again.

23 (At this time, the Reporter read back the  
24 referred-to portion of the record.)

25 MR. FINA: Answer the question about whether

1 the conversation you had with Martin about continuing  
2 the contract, whether there were any deadline  
3 discussions.

4 THE WITNESS: I don't recall.

5 MR. SCHLAFLY: I object to you rephrasing my  
6 question.

7 MR. BUTKOVITZ: Since there's no question  
8 pending at the moment, is there any plan to take a break  
9 at a particular time?

10 MR. SCHLAFLY: We can take a break.

11 MR. BUTKOVITZ: Two minutes?

12 BY MR. SCHLAFLY:

13 Q. Just for the record, what are you reading  
14 from there, Mr. Harley?

15 A. Some notes. Is that okay?

16 Q. Yeah. I'd like a copy of those.

17 MR. FINA: I'll see what they are. We'll  
18 decide if they're discoverable.

19 MR. SCHLAFLY: He's reading from notes  
20 during -- during a deposition. I'm entitled to that.

21 MR. FINA: I don't know what they are. I  
22 have to look at them.

23 MR. SCHLAFLY: Well, if he's reading them  
24 during a deposition, it doesn't matter what they are.

25 MR. FINA: If they're appropriate to turn

1 over and they're not privileged, I will turn them over.

2 THE WITNESS: They may be privileged. I  
3 don't know.

4 MR. SCHLAFLY: We can take a break.

5 (At 11:10 a.m., a recess was held.)

6 (11:18 a.m.)

7 BY MR. SCHLAFLY:

8 Q. So I reiterate my request to see a copy of  
9 what you were reading from. Let me ask you, Mr. Harley,  
10 were you reading from some notes there during my  
11 questioning before our break?

12 A. Yeah. I was refreshing my memory on a  
13 question that you asked.

14 Q. And what were those notes?

15 A. It was just some notes on, like, a time  
16 line.

17 MR. SCHLAFLY: I renew my request to see  
18 those.

19 MR. FINA: I reiterate my statement that I  
20 will look at them and determine if they're  
21 attorney/client work product or some other privilege.  
22 If they're not, I will get you a copy of them pursuant  
23 to your discovery request.

24 BY MR. BUTKOVITZ:

25 Q. I would just like to clarify on the record.

1 You didn't review every single page of whatever stated  
2 papers that you had, did you?

3 A. No.

4 Q. Was it a single page?

5 A. It was one paragraph, a single page.

6 Q. Are the pages numbered?

7 A. I don't even think they're numbered.

8 Q. Do you have it in front of you?

9 A. It's in my file.

10 Q. I just want to be able to keep it limited to  
11 what the actual request is. Can -- maybe can you just  
12 take it out and figure out if it's not numbered, what  
13 page it is? And maybe you can identify, just for the  
14 record, a paragraph, as well?

15 MR. FINA: He was looking at a paragraph --

16 MR. BUTKOVITZ: Maybe just number -- assign  
17 a number.

18 MR. FINA: On the second page of the  
19 document, paragraph at the bottom of the page.

20 MR. SCHLAFLY: I object to the attorney  
21 testifying for the witness. I mean -- the witness --

22 MR. FINA: I'm just trying -- I'm not  
23 testifying.

24 MR. SCHLAFLY: You are. You don't know what  
25 he's looking at. Ask the witness what he's looking at.

1 I don't --

2 MR. FINA: The witness handed me a document  
3 and pointed at what he was looking at.

4 MR. SCHLAFLY: And that's fine. And that's  
5 not proper for a deposition. We're having a deposition  
6 here.

7 MR. BUTKOVITZ: I just want to identify,  
8 just for the record --

9 MR. SCHLAFLY: No. You talk to the attorney  
10 on your own time. The witness is here to answer  
11 questions.

12 MR. BUTKOVITZ: I mean --

13 MR. SCHLAFLY: If you want to say what you  
14 were looking at, that's fine, but we're not going to  
15 have testimony from an attorney.

16 MR. BUTKOVITZ: You placed the request on  
17 the record for a document. I just want to clarify on  
18 the record what the document is that you're --

19 MR. SCHLAFLY: Then ask the witness.

20 MR. BUTKOVITZ: Okay.

21 MR. SCHLAFLY: Don't ask his attorney.

22 MR. BUTKOVITZ: I did ask him --

23 THE WITNESS: He did ask me.

24 MR. SCHLAFLY: Okay. So what were you  
25 looking at on the document?

1                   THE WITNESS: And I handed it to my  
2 attorney. I will let my attorney determine whether I  
3 should answer this question or not.

4                   MR. SCHLAFLY. No. Well, okay, fine. If  
5 the attorney wants to object, that's fine. We're not  
6 going to have the attorney testify.

7                   MR. BUTKOVITZ: I'll tell you -- Mr. Harley,  
8 could you just identify the page number and the number  
9 of paragraphs from the top which paragraph you were  
10 looking at?

11                   THE WITNESS: Page two. Nine.

12                   MR. BUTKOVITZ: The ninth paragraph from the  
13 top?

14                   THE WITNESS: Yes.

15                   MR. BUTKOVITZ: Okay.

16 BY MR. SCHLAFLY:

17                   Q. And is your testimony that's the only part  
18 of the document that you were looking at there?

19                   A. Yes.

20                   Q. And was that document prepared by an  
21 attorney for you?

22                   A. No.

23                   Q. And who prepared that document?

24                   A. I'd have to go back. It's -- I'd have to go  
25 back and look. I think it was --

1 Q. Are you finished answering?

2 A. Yeah. I have to go back and look.

3 Q. Where would you look?

4 A. Go back an the computer, see --

5 Q. Somebody e-mailed you the document?

6 A. No. I don't recall getting it in an e-mail.

7 I think it was an internal document.

8 Q. Did you prepare part of the document?

9 A. I did not type the document.

10 Q. Did you write the document?

11 A. No.

12 Q. So the document is on your computer?

13 A. I don't think it's on my -- it may not be on  
14 my computer. I don't know.

15 MR. SCHLAFLY: Well, I'd request a copy of  
16 it. It's influenced the deposition. I'm inclined to  
17 call the Court if you're not going to turn it over.  
18 It's not provided by his attorney. What's -- do you  
19 object to producing it?

20 MR. FINA: I do, because I don't -- I'm not  
21 exactly sure what it is. And I've got to look at it and  
22 I've got to --

23 MR. SCHLAFLY: Look at it right now.

24 MR. FINA: No, no. Look, we're not here  
25 today to produce documents. You didn't say -- there's

1 no request for production. He's looked at a single  
2 paragraph. He's identified what the paragraph is. I  
3 said I would review it to determine whether it's  
4 appropriate to provide in discovery.

5 MR. SCHLAFLY: I'm inclined to call the  
6 Court. He's been looking at a document during the  
7 deposition; I'm entitled to see it and ask him questions  
8 about it. And if you're not going to allow that, I'll  
9 give you -- you can have a little time to look at it  
10 yourself. It's not from an attorney. There's not --

11 MR. FINA: I'm not in a position here to  
12 redact other things from the document that may be my  
13 writings or may be privileged writings. He says he  
14 looked at a single paragraph. If you want me to try to  
15 extract that single paragraph here today, I will do  
16 that.

17 MR. SCHLAFLY: No. No. Shall we call the  
18 Court?

19 MR. FINA: You're free to call the Court or  
20 do whatever you want.

21 MR. SCHLAFLY: Okay. All right. Let's call  
22 the Court. Is there's a way to do it on your phone, or  
23 do you want to do it on my cell phone? I guess I can  
24 the ask the court reporter. Do you know if we can call  
25 out from here?

1 (At this time, a discussion was held off the  
2 record and Mr. Schlaflay called the  
3 Court.)

4 BY MR. SCHLAFLY:

5 Q. In the arrangements that you have with other  
6 clients at Quantum Communications, how are those  
7 arrangements typically terminated?

8 A. It depends. It depends on the project; it  
9 depends on the client; it depends on the scope of work.

10 Q. Have you been involved in litigation with  
11 any other clients at Quantum Communications?

12 A. No. They pay their bills.

13 Q. Do all your other clients pay all their  
14 bills?

15 A. Yes.

16 Q. You've never had another client that doesn't  
17 pay their bill; is that your testimony?

18 A. I have not had a client that hasn't paid.

19 Q. Has Quantum Communications ever had a client  
20 --

21 A. Quantum's been around before I was -- joined  
22 them six years ago. They may have. I'm not aware of  
23 any.

24 Q. But in the last six years, you're not aware  
25 of any other client that did not pay their bill?

1 A. Nope.

2 Q. And you're not aware of any other litigation  
3 regarding Quantum Communications?

4 A. No.

5 Q. And how do these other clients -- give me  
6 some examples of how other clients terminate their  
7 relationship with Quantum Communications?

8 A. Well, it depends on what the scope of work  
9 is. We work with some clients that it will be for a  
10 specific project, and when the project is completed, we  
11 know that going in, that -- the work is done. It's  
12 spelled out in the agreement for a specific amount of  
13 time.

14 Q. Do your agreements typically have a time  
15 duration within them?

16 A. It depends. Some do; some don't.

17 Q. The ones that do not have a time duration in  
18 them, how have those been terminated?

19 A. I'm not sure that they have been. We've had  
20 clients for many, many years.

21 Q. So you're not aware of any other clients who  
22 have terminated their relationship with Quantum  
23 Communications?

24 A. Sure. When we've completed work or there's  
25 oftentimes we'll have a -- we're talking to our clients

1 all the time. So if it appears that they're to the  
2 point where a specific project is done that we are  
3 working on, then we're done, and we move on to get other  
4 clients. Or if they have another project that they're  
5 -- that comes in, they'll contact us to see if we're  
6 interested.

7 Q. Are those clients you do work for on a  
8 project basis, are they paying you a monthly retainer?

9 A. Yes.

10 Q. Do they pay you a monthly retainer after the  
11 project is done?

12 A. It's -- it's spelled out in the agreement  
13 for how long the -- if it's, you know -- there are some  
14 that, you know, it may be three or four months for a  
15 specific project. But if the project continues, for  
16 whatever reason, then it's usually just a verbal  
17 agreement that okay, hey, we've got this -- these, you  
18 know, other things that we've got to do to complete this  
19 and just invoice us for another month. It's worked that  
20 way in the past.

21 Q. And would those invoices typically be for  
22 just some flat retainer without any --

23 A. Yeah.

24 Q. And are the terminations done verbally?

25 A. No. Some -- often, if we have a client, or

1 sometimes we'll get them in writing.

2 Q. In writing, meaning by e-mail?

3 A. E-mail. Letter. There's not a lot of  
4 terminations.

5 Q. But there's some, right?

6 A. Well, some are project-based, right. We've  
7 had some clients, you know, we've had, you know, some  
8 Fortune 500 companies, a big tech company that we worked  
9 on a specific project that went a little bit longer, and  
10 then -- and then it was done. I think we may have gone  
11 month-to-month determining how long that project was  
12 going to last. And -- and then -- and then it was --  
13 then we just said all right; I think we're as far as we  
14 can go with it; and that was it.

15 Q. Has any client ever terminated the  
16 relationship when Quantum Communications wanted to do  
17 more work?

18 A. I can't recall.

19 Q. You don't recall any instances --

20 A. Well, listen, I mean we would love to  
21 continue to work for everybody, but sometimes, you know,  
22 projects are done and you -- and you know you're done.  
23 You've finished the project.

24 Q. Okay. Well, when it's not project-specific,  
25 are there sometimes when clients terminate the

1 relationship and say we don't need you any more?

2 A. I'm trying to think. You know, I'm sure  
3 it's happened. I can't recall any, off the top of my  
4 head.

5 Q. You can't think of a single instance of  
6 losing a client in that way?

7 A. I'd -- I'd have to go back and look at our  
8 old client list to see who we had. And then, you know,  
9 what -- what the specifics were, if -- if they moved on.  
10 But, you know, generally, depending on the services that  
11 the client wants, some are over a long period of time.  
12 Others, as I said, are more project -- project-based.  
13 Some -- some we know it's going to be a very short kind  
14 of sprint because they'll need us for a short period of  
15 time. Others, we have a long multiple-year ongoing  
16 relationship with where we get a monthly retainer.

17 Q. I'm asking you, in your six years at Quantum  
18 Communications, your testimony, as you sit here today,  
19 you're not aware of a single client terminating the  
20 relationship?

21 MR. FINA: I'm going to object. That's  
22 mischaracterizing his testimony.

23 MR. SCHLAFLY. I'm not -- I'm not  
24 characterizing.

25 THE WITNESS: I think I said --

MR. SCHLAFLY: I didn't characterize his testimony.

MR. FINA: You just said your testimony is.

MR. SCHLAFLY: Please read that back.  
Please read back my question.

MR. BUTKOVITZ: The objection is on the record.

BY MR. SCHLAFLY:

Q. Okay. Go ahead, if you understand.

A. I think I said I'd have to go back and look

— —

Q. That's fine.

A. -- at all the clients that we've had since I've been here. And some, I've worked on; some I haven't, to determine why -- what -- if we don't have them any more, what was the reason that we don't have them any more.

Q. And you're not aware of that, as you sit here today. You can't testify to that as you sit here today; is that right?

A. That's right, without having to review six years' worth of clients.

Q. Have you lost any clients in 2019?

A. Nope.

O. Not a single one?

1 A. No.

2 Q. Lost any clients in 2018?

3 A. Let's see. We -- we had one client that did  
4 not renew, an anesthesiologist. But we were working on  
5 some legislation that did not -- did not advance, and  
6 they moved in another direction.

7 Q. Was there a term period in your agreement  
8 with that client?

9 A. I can't remember. I'd have to go back and  
10 look at the agreement.

11 Q. What did you mean by it did not renew?

12 A. I think it was at the end of the year, the  
13 legislative session was starting a new legislative  
14 session, and the legislation that we were advocating for  
15 them did not pass.

16 Q. And was your agreement tied to the  
17 legislative calendar?

18 A. I -- I have to go back. I didn't write that  
19 -- or I wasn't involved in writing that agreement or  
20 contract. So I can't -- I can't speak to the specifics  
21 of the agreement.

22 Q. Was that a monthly retainer fee?

23 A. It was.

24 Q. Was that for lobbying work?

25 A. It was for lobbying communications work.

1 Q. Can you think of any other client you lost  
2 in 2018?

3 A. Nope.

4 Q. About how many clients did you have in 2018?

5 A. I'd have to go -- I'd have to go through  
6 because, you know, there's some clients that I work on.  
7 And there's clients that other people in the firm work  
8 on. I'd have to go through the entire client list, and  
9 I don't have that in front of me.

10 Q. Is it more than 30?

11 A. It's not more than 30.

12 Q. Is it more than 20?

13 A. I'd have to go through the list. I don't  
14 know.

15 Q. Okay. But it's not more than 30 clients  
16 that you're billing on this monthly retainer system,  
17 right?

18 A. No.

19 Q. How many people work for Quantum  
20 Communications?

21 A. We have right now three, four, five.

22 Q. Five total, including yourself?

23 A. Um-hum.

24 Q. Including Charlie Gerow?

25 A. Yep.

1 Q. Have you ever heard Charlie Gerow talk about  
2 Phyllis Schlafly?

3 A. In what way?

4 Q. In any way.

5 A. I'm sure we've had plenty of discussions  
6 about Phyllis Schlafly when we had this project. It was  
7 a client.

8 Q. Well, other than internal discussions  
9 relating directly to the project, did you ever hear him,  
10 Charlie, reference Phyllis Schlafly?

11 A. I think when she passed away, I think we had  
12 a conversation about her.

13 Q. Did you ever hear him mention her on his  
14 television or radio show?

15 A. I can't recall.

16 Q. Who handles the billing at Quantum  
17 Communications?

18 A. Well, it was Ken Robinson until February of  
19 this year. Now it's Crystal Wheeler.

20 Q. Do you know if Crystal Wheeler handled any  
21 of the invoices in this matter?

22 A. She did not.

23 Q. And Ken Robinson has passed away, right?

24 A. Correct.

25 Q. In your job duties at Quantum

1       Communications, just in a rough estimate, how do you  
2       spend your time? How do you spend your workday? Is it  
3       -- much of it dealing with clients, much of it on the  
4       computer? Just give me an idea of how -- what your job  
5       duties are like. You don't have to be precise. Just  
6       how do you spend your time?

7           A.       I spend my time working on behalf of our  
8       clients; and certainly it's a varied -- you've got  
9       various clients with different needs. And so there's  
10       e-mails, there's research, there's -- I spend, you know,  
11       probably a large part of my day on the phone.

12          Q.       Do you travel much?

13          A.       It depends. Sometimes you have to for  
14       clients. But primarily, we work out of our office here.

15          Q.       When did you decide -- when did Quantum  
16       Communications decide to stop doing any work related to  
17       Ed Martin in any way?

18          A.       I'd have to go back and review, but I  
19       believe it was probably -- my recollection is maybe  
20       March, April of 2017, somewhere around there, when it  
21       became apparent that Ed Martin was telling us one thing  
22       and then not doing another, that we weren't going to get  
23       paid.

24          Q.       Was there a discussion you had internally  
25       about that?

1           A.        It's my recollection that, you know, Charlie  
2 and I were discussing the fact that we were continuing  
3 to work but they weren't getting paid; I think Charlie  
4 thought that -- believed Ed, that he would, in his  
5 conversations, I heard Ed say this, he would -- he would  
6 pay us.  So it was, like, all right.  We will continue  
7 to work, thinking that he was an honorable person.  And  
8 -- but then when -- something to the effect that he was  
9 having a problem with his board or something.  I don't  
10 know what -- all the particulars are, without looking --  
11 reviewing everything, is that it looked like we were not  
12 going to get paid.  So it was, like, all right.  Well,  
13 we're not getting paid, then we'll stop invoicing, stop  
14 working.

15           Q.        And did you, as part of that decision-making  
16 process, did you decide not to send any work product to  
17 Ed Martin?

18           A.        What work product?

19           Q.        Film, for example.

20           A.        The film project wasn't done.  I think I  
21 told you before that we don't send raw video.  We don't  
22 send a nearly-completed project to the client to let  
23 them review it.  They don't get the uncut versions.

24           Q.        The -- what percentage, just ballpark, of  
25 the work that you allegedly did in connection with Ed

1 Martin, what percentage of that work was spent on the  
2 film project, in all the work you did? Just ballpark,  
3 what percentage was spent on the film project? And that  
4 would include the Saint Louis film and the Faith  
5 Whittlesey film and any other film.

6 MR. FINA: Can we get clarification that you  
7 means just Kevin, Mr. Harley?

8 BY MR. SCHLAFLY:

9 Q. No. I mean Quantum Communications. Thank  
10 you.

11 A. Oh, well, I can't speak to Quantum. I don't  
12 know how much -- I know Charlie spent a lot more time on  
13 it than I did. I certainly went to Saint Louis, did  
14 research on some of the people that Ed had given us so  
15 that we could -- some of people to be interviewed, so  
16 that we could, you know, ask them the right questions.  
17 Worked with the film crew, making sure that they were --  
18 had everything they needed.

19 And then the post-production, I wasn't real  
20 involved in that. That was -- Charlie was more involved  
21 in post-production. But I saw some of the raw video, as  
22 I said, some of the -- I saw some of the interviews.

23 Q. What percentage of your time was spent on  
24 that, as a percentage of all the work you allegedly did  
25 in connection with Ed Martin?

1           A.        I don't know percentage.  We spent four days  
2        in Saint Louis or three days in Saint Louis.  We did  
3        prep work, the work afterwards.  I couldn't put -- you  
4        know, I'm not putting that in a percentage.  I don't  
5        know -- I'd have to go back and think about all the work  
6        I did prior to that in the fall, all the -- all the  
7        phone calls, all the -- everything else.  I -- I don't  
8        -- I can't put it in a percentage.

9           Q.        Do you keep track of your time in any way?

10          A.        I don't.  I don't do time sheets.

11          Q.        Of any work that Ed Martin or anyone  
12        affiliated with Ed Martin ever received from Quantum  
13        Communications, can you estimate what the value of that  
14        work was that Ed Martin did receive, if any?

15          A.        Sure.  He received 130,000 or \$20,000 a  
16        month worth of professional services from Quantum  
17        Communications.

18          Q.        And what's your basis for that?

19          A.        That was the agreed-upon agreement, and they  
20        agreed to it; Ed agreed to it, and the value, the  
21        counsel, advice, and work product that we were giving  
22        him.

23          Q.        But you never sent him any film.

24                    MR. FINA:  Objection.

25                    BY MR. SCHLAFLY:

1           Q.    Okay.  What was the value of the film that he  
2 received from you, if any?

3           A.    The value of the film project?

4           Q.    That he received from Quantum Communications  
5 -- Quantum Communications, if any.

6           MR. FINA:  Object to the question.  He's  
7 answered --

8 BY MR. SCHLAFLY:

9           Q.    I can rephrase, if you don't understand.  
10          No.  Did Ed Martin receive anything of value in  
11 connection with your filming?

12          A.    Ed Martin didn't pay the bill, so Ed Martin  
13 didn't get the final product or even the next to the  
14 final draft.  That's how it works.

15          Q.    Okay.  You didn't answer my question  
16 directly.  Is it your testimony that Ed Martin received  
17 zero value on the film project?

18           MR. FINA:  Object to the form of the  
19 question.  It mischaracterizes his testimony.

20          MR. SCHLAFLY:  I'm asking him what his  
21 testimony is.  I'm just asking him to answer the  
22 question.

23           THE WITNESS:  The film project, by itself,  
24 was probably -- the final product probably would have  
25 been worth 100,000-plus by itself.  But we didn't get

1 paid, so the film project wasn't completed.

2 BY MR. SCHLAFLY:

3 Q. Or delivered, right?

4 MR. FINA: Asked and answered. Go ahead.

5 Answer it again.

6 THE WITNESS: As I've stated numerous times,  
7 you do not give a client raw video. You give a client a  
8 product that is near completion so that they have the  
9 opportunity to make edits on it before you go to final  
10 production.

11 BY MR. SCHLAFLY:

12 Q. And did the film project get to a stage of  
13 near completion?

14 A. It was getting close. Charlie, again, was  
15 working on that more than I was.

16 Q. So is your answer yes or no? To the best of  
17 your knowledge, did the film project get to that stage  
18 of near completion you just referenced?

19 A. I'd have to go back and review it again to  
20 see how close --

21 MR. FINA: I'm going to object, as well.  
22 Asked and answered. He's stated it was getting close.

23 MR. SCHLAFLY: And I'm trying to find out  
24 what that means.

25 MR. FINA: Well, then ask him what that

1 means.

2 BY MR. SCHLAFLY:

3 Q. In your words, getting close, does that mean  
4 near completion?

5 A. Well, we had the interviews done; we had the  
6 b-roll; we had the legacy video, photos. It was a  
7 matter of -- and a lot of the video had been edited by  
8 the -- our film crew, our production crew. So it was a  
9 matter of putting -- putting the rest of it together,  
10 which the -- the hardest part, when you -- when  
11 you do the video, is getting the videos done, and then  
12 the post-production normally goes pretty quickly when  
13 you've -- once you have -- you have to have the product,  
14 and then you -- then you edit the product. So the  
15 editing post-production goes relatively fast.

16 Q. Is any of the filming that you've done in --  
17 in near completion stage where you would release it to  
18 the client?

19 A. I don't think it was to the point that it  
20 was ready to be released to the client.

21 Q. I'm going to ask about Exhibit 32. I have  
22 one copy for the witness. This is --

23 MR. BUTKOVITZ: What's the Bates stamp?

24 MR. SCHLAFLY: It's QC 1213.

25 MR. BUTKOVITZ: One more time. What was it

1 previously marked as?

2 MR. FINA: 32.

3 MR. SCHLAFLY: 32.

4 BY MR. SCHLAFLY:

5 Q. Do you recognize this document, which was a  
6 letter from Ian Northon to -- no. It's a letter from  
7 Quantum Communications to Ian Northon.

8 A. Yes.

9 Q. Did you participate in drafting this letter?

10 A. Yes.

11 Q. Did you get any assistance of Counsel?

12 A. Assistance of Counsel? No. I discussed it  
13 with Ed Rollins on the scope of work and then discussed  
14 more of the particulars with -- with Charlie Gerow and  
15 drafted it, let him draft it. Also, in conversations I  
16 had with Ian on what the scope of work would be, and  
17 those were, as I recall, you know, conference calls with  
18 Ian.

19 Q. So you were the primary drafter of this  
20 document; is that correct?

21 A. Well, I -- I -- yes. I took the  
22 information, put it down on paper.

23 Q. Took the information from various sources?

24 A. Yes.

25 Q. If you look at -- well, is this your

1 signature?

2 A. Yes.

3 Q. Look at the second paragraph from the  
4 bottom. There's a sentence that says, Any such expense,  
5 in excess of \$500, will require prior approval.

6 MR. FINA: That's on page two, correct?

7 MR. SCHLAFLY: Right.

8 BY MR. SCHLAFLY:

9 Q. Was that your intent?

10 A. That's kind of standard operating procedure.

11 Q. Are you aware of seeking prior approval for  
12 any of the expenses in connection with any of the work  
13 done?

14 A. Yes.

15 Q. Did you seek prior approval?

16 A. Charlie, in discussions we had with Ed  
17 Martin to do the film project, travel to Saint Louis,  
18 and then I didn't travel to Washington, but that was all  
19 with Ed's approval.

20 Q. And your testimony is that Ed gave prior  
21 approval for those travel expenses?

22 A. We did not -- yes, the film project, it was  
23 Ed's suggestion we come to Saint Louis and do that. I  
24 wasn't involved in the Faith Whittlesey, but that was --  
25 Ed was involved in that decision, as well. So we had

1 prior approval from Ed Martin.

2 Q. Was your intent for the initial \$20,000 to  
3 be paid upon execution of this agreement?

4 A. It was.

5 Q. And was that \$20,000 paid?

6 A. No.

7 Q. And were you aware that it was not paid?

8 A. I became aware that it was not paid.

9 Q. When did you become aware that it was not  
10 paid?

11 A. Well, at some point, I guess, the next  
12 month.

13 Q. Well, you guess, but do you know?

14 A. I don't know specifically, but I know that  
15 we've had subsequent conversations with Ed Martin, who  
16 said he would pay it.

17 Q. And your testimony is that Ed Martin said he  
18 would pay \$20,000?

19 A. He said he would go by the terms of the  
20 original agreement.

21 Q. Did he specifically say that he would pay  
22 \$20,000?

23 A. It's my understanding that he said that he  
24 would pay what -- what -- yes. Yes. He would pay --  
25 abide by the terms of the agreement.

1           Q.        Well, okay. But I'm asking -- is that all  
2 he said, that he would just abide -- that he would abide  
3 by the terms, or did he specifically say that he would  
4 pay \$20,000?

5           A.        Now listen, this is -- we had conversations  
6 where we're talking about a lot of other things, and  
7 then this would come up, and he said he would -- he  
8 would make sure we got paid.

9           Q.        Did he say he would pay you \$20,000 a month?

10          A.        Yes. It is my understanding, very clearly,  
11 that he would pay -- that it was for \$20,000 a month.

12          Q.        I'm not asking you what your understanding  
13 was. I'm asking you if Ed Martin told you that he would  
14 pay \$20,000 a month?

15          MR. FINA: Objection.

16          THE WITNESS: It is my recollection that Ed  
17 Martin said very specifically, on more than one  
18 occasion, that he would pay us for the services that we  
19 have performed and continue to engage us moving forward.

20 BY MR. SCHLAFLY:

21          Q.        Is that a no answer?

22          MR. FINA: Objection.

23 BY MR. SCHLAFLY:

24          Q.        I'm sorry. I have to get an answer to this  
25 question.

1 MR. FINA: He did answer the question.

2 BY MR. SCHLAFLY:

3 Q. No. I'm sorry. Did Ed Martin ever tell you  
4 that Ed Martin would pay \$20,000 a month? I have to get  
5 an answer to that.

6 MR. FINA: Asked and answered.

7 THE WITNESS: Well, the easy answer then is  
8 yes. He said he would abide by the terms of the  
9 agreement.

10 BY MR. SCHLAFLY:

11 Q. And did he say that more than once?

12 A. We had discussions about our lack of payment  
13 numerous times, and each time, he said that he would pay  
14 us.

15 Q. Pay you what?

16 A. Pay us what we were owed from prior invoices  
17 and continue to pay us moving forward. There was at  
18 some point, and I don't remember the exact date, where  
19 there was a discussion about moving forward and taking  
20 it -- our retainer from 20, and I believe Charlie had  
21 this discussion with him, but he shared it with me, from  
22 20,000 a month to 10,000 a month, which Ed agreed to. I  
23 don't know if that -- I can't remember if that was at  
24 the end of the year, beginning of January, somewhere  
25 around there.

1 Q. Is there anything in writing on that, that  
2 you're aware of?

3 A. I believe so.

4 Q. And what do you believe that is?

5 A. I believe there's an e-mail between Charlie  
6 and Ed.

7 Q. And you think you've seen that e-mail?

8 A. I think I've seen it. I don't know if I was  
9 cc'ed on it, but I think I've seen it.

10 Q. You think that e-mail references \$10,000 a  
11 month?

12 A. It's my understanding it does.

13 Q. Have you produced that e-mail in this  
14 litigation?

15 A. Excuse me?

16 Q. Have you produced that e-mail in this  
17 litigation?

18 A. I don't know.

19 MR. FINA: It was one of the exhibits with  
20 Mr. Martin.

21 MR. SCHLAFLY: Where it refers to \$10,000 a  
22 month?

23 MR. FINA: Yep.

24 MR. SCHLAFLY: Which exhibit is that?

25 MR. FINA: I don't remember the number. I

1 believe it was the e-mail of March 17th, Exhibit 3.

2 MR. SCHLAFLY: Does it have the QC number at  
3 the bottom?

4 MR. FINA: 68. Do you want me to read from  
5 it?

6 BY MR. SCHLAFLY:

7 Q. Well, that's an e-mail from Charlie. That's  
8 not an e-mail from Ed to Charlie. Is that what you were  
9 referring to, that Charlie hoped he would get \$10,000 a  
10 month?

11 MR. FINA: Objection. That's not what the  
12 document says.

13 MR. SCHLAFLY: The document is an e-mail  
14 from Charlie to Ed.

15 BY MR. SCHLAFLY:

16 Q. Is that the e-mail you were referencing in  
17 your testimony here?

18 A. Yeah. And it's -- as I testified to, it was  
19 my understanding that Ed and Charlie had a discussion  
20 about this, and that Ed agreed to it.

21 Q. Okay. But you're -- are you aware of any  
22 written communication from Ed to anyone at Quantum  
23 Communications that --

24 MR. BUTKOVITZ: Are you asking him other  
25 than page 2, QC 69 where he responds to Charlie, Got it?

MR. SCHLAFLY: No. He included that. And let me finish my question.

BY MR. SCHLAFLY:

Q. Are you aware of any communication from Ed Martin to anyone at Quantum Communications where Ed said that he would pay 10,000 a month or \$20,000 a month or anything a month?

A. Am I aware of any communication? Yes, I am aware. I'm aware of communication -- verbal communication multiple times --

Q. That's not what I asked.

A. -- with Ed Martin.

Q. That's not what I asked.

A. And then on this one, he says, Got it.

Q. Yeah. He got it. Okay. I'm asking you are you aware of any written communication from Ed Martin to anyone at Quantum Communications where Ed Martin said he would pay \$10,000 a month or \$20,000 a month?

A. Yes. I'm aware of e-mails going back and forth where Ed said he would pay our invoices, and then this is 10,000 going forward, and he agreed to that.

Q. Okay. So your testimony, just to clarify, that you considered QC 69 as a written communication from Ed Martin to Quantum Communications that Ed would pay 10 or \$20,000 a month? Is that your testimony?

1           A.       If you read the prior e-mail from Charlie to  
2 Ed, it lays it out. And Ed's e-mail back to Charlie,  
3 Got it. Agreed.

4           Q.       That's what got it means to you? Agreement?

5           MR. FINA: Objection.

6           THE WITNESS: Not only that. That was in --  
7 in prior conversations --

8 BY MR. SCHLAFLY:

9           Q.       No. Stick to my question.

10          A.       -- is that it was the understanding that he  
11 was going to pay our prior invoices, and moving forward,  
12 we would go from 20 to 10.

13          Q.       Do you interpret got it as meaning I agree?

14          A.       I do.

15          Q.       And what was the date of that e-mail?

16          MR. FINA: March 17th, 2017.

17 BY MR. SCHLAFLY:

18          Q.       Did you do any work after this date for Ed?

19          A.       I'd have to go back and look. I don't -- I  
20 don't know.

21          Q.       Are you aware of any work that anyone at  
22 Quantum Communications did after this e-mail?

23          A.       Well, I think we were still -- I have to go  
24 back and look at the -- at the time line exactly when it  
25 was that we were continuing to work up until the point

1 where it was clear that we weren't going to get paid.

2 So whenever that was. We continued to work.

3 Q. Can you identify any project that you worked  
4 on --

5 A. We were working on the --

6 Q. -- for Ed after this time?

7 A. Sure. We were working on the -- on the film  
8 and other things.

9 Q. After this time?

10 A. Giving him, you know, strategic counsel on  
11 getting out there, using technology much more  
12 effectively than had been done, which I might add, I  
13 think he took -- he took our counsel wisely and has  
14 done.

15 Q. Has Quantum Communications ever refunded any  
16 money to any clients?

17 A. I don't think so.

18 Q. Has Quantum Communications every received  
19 any complaints from any clients?

20 A. I'm not aware of any.

21 Q. You're not aware of any complaints?

22 A. I'm not aware of any complaints.

23 Q. Are you aware of any specific contacts that  
24 Quantum Communications made with anyone in the media in  
25 connection with anything in this case?

1 A. No.

2 Q. And is that media work a big part of the  
3 work that Quantum Communications does for other clients?

4 A. It depends on the client; it depends on the  
5 work, on the scope of work.

6 Q. Do you promote, on your website, that you do  
7 media work -- that Quantum Communications does media  
8 work for clients?

9 A. Yes.

10 Q. I just have a few more questions. Does  
11 Quantum Communications do any litigation support for any  
12 clients?

13 A. We do crisis communications, where law firms  
14 will engage us to -- to assist them.

15 Q. And is that media-related work?

16 A. It is both media, anticipating what the  
17 media may do. Typically, you know, we'll work with the  
18 lawyers and other principals on crafting messages and  
19 then determining the best way to deliver those, and  
20 certainly on a case-by-case basis.

21 Q. Did Quantum Communications do any litigation  
22 support work for Ed Martin?

23 A. Sure. That was part of our original --  
24 working with the law firm on the litigation aspects of  
25 the lawsuits going back and forth between Ed, your side,

1 and your sister.

2 Q. Did Quantum Communications ever communicate  
3 to Ed that Quantum Communications would no longer do any  
4 work related to Ed?

5 A. I'd have to go back through. I did not.  
6 I'd have to go back through and review what Charlie  
7 said, I believe.

8 Q. Does Quantum Communications ever terminate  
9 relationships with any clients?

10 A. When you say terminate, what's your  
11 definition of terminate? There are times when, as I  
12 mentioned earlier, that projects are done, campaign,  
13 election day happens, and we terminated our work. But  
14 are you saying firing a client? Is that what you mean?

15 Q. If you want to put it that way, yes.

16 A. I don't know that we've done that since I've  
17 been here. It could have happened before.

18 Q. Does Quantum Communications do any PAC work?

19 A. What's your definition of PAC work?

20 Q. Does it raise any political money? Does it  
21 have any entities upon which it takes in political  
22 donations?

23 A. Are you saying do we have a PAC? What's  
24 your question?

25 Q. Well, I'm saying do you raise any money for

1 PAC? Do you do any work connected with political  
2 fundraising to a PAC or entity like that?

3 A. Well, we have clients that have had PACs or  
4 have a PAC, and we will advise them on -- we have  
5 clients that have PACs, and we've discussed with them,  
6 you know, ways in which they can either spend the PAC  
7 money and/or ideas on how to raise more PAC money. But  
8 we don't -- it's more strategic counsel than doing any  
9 of the work.

10 Q. And in those relationships, do you bill on a  
11 monthly basis, as well?

12 A. Yes.

13 Q. And do the political campaigns pay you out  
14 of their campaigns for that work?

15 A. I wasn't referring to political campaigns.  
16 I was referring to political action committees. There's  
17 a difference.

18 Q. Okay. Do the political action committees  
19 pay you out of the PAC fund?

20 A. No. No. If we have a client that happens  
21 to have a PAC, and they may ask us for strategic advice  
22 on how to either increase the funding for the PAC and/or  
23 on -- they may ask our advice on whether it's -- they  
24 should give to this person or that person, this  
25 candidate or that candidate, we may give them our advice

1 as part of our -- and that would be part of our monthly  
2 retainer.

3 Q. And what type of client would that be? An  
4 individual typically or --

5 A. Typically an association or corporation that  
6 has a PAC.

7 MR. SCHLAFLY: Okay. I have no further  
8 questions, but I may have some redirect after the other  
9 questions.

10 CROSS EXAMINATION

11 BY MR. BUTKOVITZ:

12 Q. Okay. What time is it? Good afternoon, Mr.  
13 Harley. My name is Ed Butkovitz. I represent Eagle  
14 Forum in this case. Hopefully just a few questions for  
15 you.

16 So in your earlier testimony, you said that  
17 the term Eagle Forum was a term they used internally to  
18 refer to the entity Eagle Forum Education and Legal  
19 Defense Fund; is that correct?

20 A. That's correct.

21 Q. Are you aware that there are separate legal  
22 entities, one being named Eagle Forum and another being  
23 named Eagle Forum Education and Legal Defense Fund?

24 A. Yes.

25 Q. Do you understand that Eagle Forum is a

1 501c4?

2 A. Yes.

3 Q. Do you understand that Eagle Forum Education  
4 and Legal Defense Fund is a 501c3?

5 A. Yes.

6 Q. Is it your position that the agreement that  
7 was entered into with -- with Quantum Communications was  
8 with Eagle Forum Education and Legal Defense Fund?

9 A. Yes.

10 Q. If you look to Exhibit 32, it's Bates label  
11 QC 12 through 13. That's the letter agreement.

12 A. Is that --

13 MR. FINA: Yeah.

14 THE WITNESS: Okay. Go ahead.

15 BY MR. BUTKOVITZ:

16 Q. I just want to start by reading you the  
17 first sentence with the inclusion of the handwritten  
18 notations there.

19 A. Yes.

20 Q. That says, This letter sets forth the terms  
21 of our engagement for Eagle Forum Education and Legal  
22 Defense Fund, a 501c3 organization, parenthesis, Eagle  
23 Forum, closed parenthesis.

24 Do you see that?

25 A. I do.

1 Q. And who added that language?

2 A. Ian Northon.

3 Q. Is it your understanding that -- strike  
4 that. Do you know what a defined term is?

5 A. Go ahead.

6 Q. So you see in parentheses, it says Eagle  
7 Forum?

8 A. I do.

9 Q. So does that indicate to you or did -- when  
10 you received this back, did you interpret every instance  
11 of the phrase Eagle Forum to then refer to what's stated  
12 in that first sentence, Eagle Forum Education and Legal  
13 Defense Fund, a 501c3 organization?

14 A. Yes, yes. Just -- if I could just explain.  
15 So in -- in our conversations -- early conversations  
16 with Ian, he kind of walked us through that. And then  
17 subsequently, Ed walked us through all of that. So it  
18 was -- you know, if you're coming in from the outside,  
19 and you're saying okay who are -- who are the players,  
20 where -- okay. So we have, you know, the sides. So we  
21 have the legal defense fund, which is the Martin side.  
22 Eagle Forum, which I think is -- everybody knows Eagle  
23 Forum is the -- is the Cori side. And then there were  
24 -- as it was explained, and it's coming back to me now,  
25 there were individual state chapters and there's a lot

1 of different moving parts to this. But to make it  
2 simple in our mind, we were working for the legal  
3 defense fund, which was Ed Martin, but I think there was  
4 some other organization that he may or may not have been  
5 involved in. I don't know if it was the Missouri Eagle  
6 Forum or the Eagles -- I think there was a group called  
7 Eagles. But to simplify it, we were working for the  
8 legal defense fund, i.e., Ed Martin.

9 So internally, even though I know you guys  
10 have different terminology, we would just say Eagle  
11 Forum, even though that may not have been legally  
12 accurate. But if we're talking amongst ourselves, we  
13 would just refer to it as Eagle Forum. Does that make  
14 sense to you?

15 Q. That absolutely does. Thank you for the  
16 clarification and explanation.

17 Based on what you know today, did the Eagle  
18 Forum entity ever request services from Quantum  
19 Communications?

20 A. No.

21 Q. Did Quantum Communications ever provide  
22 services for the benefit of quote Eagle Forum?

23 A. No.

24 Q. So am I correct, just to nail down what  
25 you've already said, this handwritten addition that

1 clarifies education and legal defense fund, a 501c3  
2 organization, that didn't amend this agreement; it just  
3 clarified what was always the intent?

4 A. Correct.

5 Q. Okay. Were you aware -- strike that. There  
6 have been references to litigation, litigation support.  
7 What case is that referring to?

8 A. I have to go back and think about this for a  
9 second. If that -- you want me to try and remember or  
10 --

11 Q. Strike that for a second. Maybe the easier  
12 way to do this, I can -- you can confirm whether --  
13 whether what I think the case is, is correct?

14 A. Okay. Yep.

15 Q. Was that a case in which it was being  
16 litigated who had authority to control Eagle Forum, the  
17 501c4 organization?

18 A. Yes.

19 Q. Yes. Is it your understanding that in that  
20 litigation, the Court removed Mr. Martin as an officer  
21 of Eagle Forum, the 501c4 organization?

22 A. Yes.

23 Q. So was it your understanding that Mr.  
24 Martin had no authority to act on behalf of or bind  
25 Eagle Forum, the 501c4 organization?

1           A.        Correct.

2           Q.        Who are the gang of six? And I'm not  
3       looking for necessarily the individual names. Can you  
4       just describe what that generally is referring to?

5           A.        Okay. That would be the -- Counsel's  
6       sister, Anne Cori, along with five other board members  
7       or presidents of state chapters, but leaders of, I think  
8       the original Eagle Forum, but who were not happy with Ed  
9       Martin taking over Eagle Forum. I don't want to get --  
10      and so there was a fight, which I think -- a fight for  
11      leadership, as I recall. You know, the -- Ed Martin  
12      believed that Phyllis wanted him to lead the  
13      organization. I think Anne Cori did not believe that.  
14      So there was this fight, which became a legal battle.  
15      And -- but basically, a fight for control of the  
16      organization.

17           Q.        Okay. Was Ms. Cori one of the gang of six?

18           A.        Yes.

19           Q.        Is it your understanding that Ms. Cori  
20      either by herself or with some other members of that  
21      gang of six, were the officers and those with -- with  
22      actual authority over Eagle Forum?

23           A.        You know, I don't know if I have an opinion  
24      on that. I think that was part of what was being  
25      litigated.

1           Q.        Fair enough.  Did you ever reach out to any  
2 of the gang of six, including Ms. Cori, in connection  
3 with the services you were providing under the written  
4 agreement that we looked at?

5           A.        No.

6           Q.        When you talked about doing -- taking some  
7 video footage, and I think interviewing some board  
8 members, were any of those board members members of the  
9 gang of six?

10          A.        No.

11          Q.        Were they board members of the Eagle Forum  
12 Education and Legal Defense Fund, a 501c3?

13          A.        I'd have to go back and look.  I don't know  
14 if -- they may have been board members of something or  
15 local president chapters or long-time friends of  
16 Phyllis.  But whether -- what their -- whether they were  
17 board member of the 501c3, I don't -- I don't recall.

18          Q.        Fair enough.  But is it fair to say you were  
19 -- you were certain that they were not board members of  
20 Eagle Forum, the 501c4?

21          A.        Let me say that I'm certain that they were  
22 for Ed Martin and not for Anne Cori.  So whether -- I  
23 know -- I don't know if they could have been a board  
24 member of the C4.  I don't know.  I'd have to go back  
25 and look.  I probably knew it at the time, but I don't

1 now.

2 Q. I'm almost done. Getting close. If you  
3 turn to Exhibit 34, which is the entire Quantum  
4 Communications production, I'd like to direct you to  
5 particular pages that begin with Bates label QC 49  
6 through QC 54. Strike that. We can get to this  
7 quicker.

8 Did you ever send or did Quantum  
9 Communications ever send invoices to Eagle Forum, a  
10 501c4?

11 A. No, not that I'm aware of.

12 Q. So other than invoices that were sent to the  
13 address listed as -- I'm not going to pronounce it  
14 correct -- Rotzel and Andress, like after a particular  
15 time, you started sending invoices to another address;  
16 is that correct? And I'd direct you'd to QC 70 as an  
17 example.

18 A. Yes. 70. Yes.

19 MR. SCHLAFLY: Excuse me. QC 78?

20 MR. BUTKOVITZ: 70.

21 BY MR. BUTKOVITZ:

22 Q. That indicates that the invoice was -- was  
23 sent to Eagle Trust Fund and Eagle Forum Education,  
24 Phyllis Schlafly Center to the attention of John  
25 Schlafly or Ed Martin?

1           A.       Yes.

2           Q.       Are you aware of any other addresses that  
3       you directly sent invoices to?

4           A.       Not -- again, I wasn't in charge of the  
5       invoices. But I knew that, at one point, Ed said send  
6       him the invoices.

7                    MR. BUTKOVITZ: No further questions. Thank  
8       you.

9                    MR. FINA: I just have a few follow-ups.

10                   CROSS EXAMINATION

11                   BY MR. FINA:

12           Q.       Mr. Harley, at the time that you had your  
13       initial conversations with Mr. Martin in September and  
14       October of 2016, was he representing to you that he was  
15       president of both Eagle Forum and Eagle Forum Education  
16       and Legal Defense Fund?

17           A.       It is my recollection that he certainly had  
18       done that. And this is one of the reasons why it was  
19       always a little -- he wasn't necessarily agreeing that  
20       he didn't have control over Eagle -- of the C4. And  
21       that was part of the litigation.

22           Q.       So during the work that you were doing, was  
23       there a lack of clarity to you, and if you know, Quantum  
24       Communications, as to whether or not they were  
25       performing work for just the legal defense fund or for

1 Eagle Forum in some form, or some governing entity of  
2 Eagle Forum?

3 A. I think to clarify this a little bit easier,  
4 I mean Ed Martin -- we -- we considered Eagle Forum, Ed  
5 Martin, to be our client. And that's who we were --  
6 that's who we were performing work for. We knew,  
7 obviously, there was litigation going back and forth.  
8 But we were continuing to call it Eagle Forum. Eagle  
9 Forum on the phone with Ed. I think Ed referred to it  
10 as Eagle Forum, unless it was a written invitation for  
11 Joe's Crab Shack. But other than that, it was kind of  
12 just known -- it was just used as Eagle Forum.

13 Q. You were aware that there was a fight going  
14 on --

15 A. Yes.

16 Q. -- both as a matter of litigation and I  
17 suppose as a matter of personal relations --

18 A. Correct.

19 Q. -- between members of the Schlafly family?

20 A. Yes.

21 Q. And that fight extended, as well, to members  
22 of, say, the board of directors of Eagle Forum?

23 A. Yes.

24 Q. So there were some members of the board of  
25 directors of Eagle Forum that were in favor of Mr.

1 Martin, as far as you were aware, and then there were  
2 clearly at least six who were not in favor of Mr.  
3 Martin, as far as you were aware?

4 A. Correct.

5 Q. And again, that would lead to a lack of  
6 clarity as to who, exactly, Mr. Martin had control of or  
7 was president of?

8 A. Right.

9 Q. Now, as you previously responded to a  
10 question, in -- today, you have more clarity in  
11 retrospect than you did at the time that you were doing  
12 the work and communicating with Mr. Martin, correct?

13 A. Right. It was all -- there was a lot going  
14 back -- it was a lot of litigation and internal fights,  
15 family fights, but then also I would kind of refer to  
16 them as political fights, with a small P, for control.

17 Q. And again, without getting in to all the  
18 litigation documents, even the litigation documents, a  
19 question here, never had clarity as to which entity  
20 exactly was suing what entity. It was more individuals  
21 and personalities involved in that litigation, correct?

22 A. That is -- that is correct.

23 Q. Okay. On the film interviews, again, you  
24 don't know whether you interviewed people who had been  
25 associated with Eagle Forum as opposed to just people

1 who were only associated with Eagle Forum Education and  
2 Legal Defense Fund?

3 A. Well, if I could just clarify that --

4 Q. Sure.

5 A. -- please? It's my understanding that the  
6 people that we interviewed were -- were long -- some of  
7 them were long-time Eagle Forum members or leaders,  
8 personal friends of Phyllis and had different roles in  
9 the organization. Whether, at the time that we  
10 interviewed them, whether they were a board member of  
11 the C4 or the C3, I don't -- I don't recall. But they  
12 -- at least some point, when Phyllis was alive, were  
13 leaders within her organization or different entities  
14 within her organization.

15 MR. FINA: Thank you. I have no further  
16 questions.

17 MR. BUTKOVITZ: I have some follow-up.

18 MR. SCHLAFLY: I do, too.

19 MR. BUTKOVITZ: I think it probably makes  
20 sense for me to just follow up, since his was on my --

21 MR. SCHLAFLY: Okay. Fine.

22 RECROSS EXAMINATION

23 BY MR. BUTKOVITZ:

24 Q. Okay. So you just testified that you lacked  
25 some clarity in, I guess, the September or October time

1 frame as to what entity you were communicating with and  
2 providing services to, something along those lines; is  
3 that correct?

4 A. Yes.

5 Q. What did you do to -- did you do anything to  
6 gain clarity?

7 A. Well, as I recall, is the litigation was  
8 kind of continuing; it would start and stop; it was in  
9 different jurisdictions. There was a lot -- it was kind  
10 of very muddy. So we continued to provide some  
11 strategic communications, counsel. It was, like, okay,  
12 this -- the lawsuits, at some point, are going to be  
13 over. But you -- you know, in order to lead the  
14 organization to continue Phyllis's legacy, these are the  
15 things that you need -- that we suggest that you  
16 consider in terms of, you know, becoming much more  
17 advanced in your communications, doing the film, for an  
18 example, professionalizing the organization, and looking  
19 -- not only helping them with the litigation as -- and  
20 any communications needs they had as litigation is going  
21 forward, but looking beyond that, to the organization,  
22 how they would grow the organization after losing a --

23 Q. I'm sorry. Let me stop you there. Who is  
24 the them in that statement? You said to help them with  
25 the organization and beyond the organization?

1           A.       Ed Martin.

2           Q.       Who did you expect to receive a check from?  
3       So be real specific. You get a check. What name do you  
4       expect to be on that check either at the top or  
5       signature?

6           A.       I didn't. I don't see the checks when they  
7       come in. So, you know, whomever was being billed would  
8       write the check. And so it's not something that I would  
9       have gotten that granular on.

10          Q.       Your understanding was you were providing  
11       services in connection with a dispute between two  
12       warring factions within Eagle Forum, correct?

13          A.       Right. So whether it was the legal defense  
14       -- you know, I don't know who would write the check.  
15       But, you know, it would be the legal defense fund, then  
16       that's where it would come from.

17          Q.       Did you expect Eagle Forum, the entity that  
18       was being fought over, would pay for a dispute between  
19       two factions?

20          A.       The -- no. In my mind, just to make it a  
21       little simpler because I'm not -- you know, so you had  
22       the gang of six. So we didn't expect the gang of six to  
23       pay for us, if that makes -- if that helps clarify.

24          Q.       Right. So did you understand from day one,  
25       that there was at least a dispute or challenge to Ed

1 Martin's authority within Eagle Forum?

2 A. Yes.

3 Q. So you recognized that it was unlikely that  
4 Ed Martin would be approving and signing a check on  
5 Eagle Forum letterhead on behalf of Eagle Forum, a  
6 501c4?

7 A. Correct.

8 Q. I think you previously testified that in --  
9 in October, possibly in one conversation, maybe two, Ed  
10 Martin called and conveyed to you that he was agreeing  
11 to abide by the terms of that original written  
12 agreement?

13 A. Correct.

14 Q. Did he indicate to you in any way that he  
15 would be changing or modifying the agreement?

16 A. No. And as I said, we had weekly calls,  
17 sometimes more, where we would discuss, you know,  
18 communication strategy, political strategies for Ed and  
19 the organization.

20 Q. So to the extent it was your understanding  
21 that he was adopting the written agreement, did that  
22 include this defined term of Eagle Forum, meaning Eagle  
23 Forum Education and Legal Defense Fund, a 501c3  
24 organization?

25 A. As far as I know, yes.

1           Q.       Did Ed Martin ever say that hey, in addition  
2 to that, you know, if -- if they don't pay, you can get  
3 it from Eagle Forum?

4           A.       No.

5           MR. BUTKOVITZ: No further questions.

6           MR. SCHLAFLY: Okay.

7                   REDIRECT EXAMINATION

8 BY MR. SCHLAFLY:

9           Q.       By the way, I want to complement you on your  
10 tie there.

11          A.       Thank you. Joe Banks. Keeping poor men  
12 looking good.

13          Q.       I want to show you Exhibit 35. Here. This  
14 is from the prior -- I've turned it to the page. You  
15 don't have to look at the whole thing. But Exhibit 35  
16 is Plaintiff's -- that's Quantum Communications's  
17 responses and objections to first request for admissions  
18 and interrogatories of Defendant Eagle Forum.

19                   So basically, Mr. Harley, it's your  
20 company's sworn responses. Charlie swore to it at the  
21 end -- you'll see a signature page here at the end -- in  
22 response to some questions.

23                   It's kind of hard to read because there are  
24 objections in here and stuff, but I'm just going to ask  
25 you something about three lines here on page five.

1 MR. BUTKOVITZ: Is there a reason you're  
2 asking him about a document that's verified by our next  
3 witness?

4 MR. SCHLAFLY: There is, because there's a  
5 statement in here by Charlie that differs from my  
6 understanding of what you just testified to, Mr.  
7 Harley. So I want to just ask you whether you disagree  
8 with Charlie's statement.

9 | THE WITNESS: Okay.

10 BY MR. SCHLAFLY:

11 Q. It's along -- I apologize. If you want to  
12 take your time to read it, but there's really only three  
13 lines I'm going to ask you about on page five. But I am  
14 telling you, this is sworn responses by Charlie Gerow to  
15 questions by Eagle Forum's Counsel.

16 A. Okay.

17 Q. And it says here --

18 A. What? Where are you?

19 Q. Yeah. It's at the end of that carry-over  
20 paragraph on page five. Subsequent to that oral  
21 communication, on or before --

22 A. I don't -- I don't find you.

23 Q. On page five?

24 A. I'm not following you.

25 MR. FINA: Top of the page? Bottom of the

1 page?

2 BY MR. SCHLAFLY:

3 Q. Top of the page, the carry-over paragraph,  
4 the last sentence. Subsequent to that oral  
5 communications, about three lines down.

6 A. Oh, you didn't say the end. Okay. Go  
7 ahead. I see it now.

8 Q. I'll just read it out loud here. Subsequent  
9 to that oral communication, on or before October 21st,  
10 2016, Martin orally agreed, on behalf of Eagle Forum and  
11 EFELDF, which is defined a few lines earlier as the  
12 Education Legal Defense Fund, to the terms of the  
13 original agreement and continued to direct the services  
14 be provided by Plaintiff.

15 And I'm just asking you if you agree with  
16 that statement.

17 A. I do.

18 Q. Okay. And then just moving on, just quickly  
19 to the issue of whether Eagle Forum -- well, strike  
20 that. Whether Ed Martin personally ever obligated  
21 himself to anything personally?

22 A. I'm not sure I follow.

23 Q. Did you do any -- here it says right here  
24 that Martin orally agreed, on behalf of Eagle Forum and  
25 EFELDF. And I'm just asking now, did Ed Martin ever ask

1 Quantum Communications to do anything for Ed Martin,  
2 personally, or did Ed Martin personally ever agree to  
3 pay anything?

4           A.        I don't know that Ed Martin ever said he was  
5       going to write a check out of his personal bank account,  
6       if that's what you're asking.

7 Q. That's what I'm asking. Whether -- you know  
8 the difference between someone acting for an  
9 organization and somebody acting for himself, right?  
10 And I'm just asking you if you ever had any  
11 understanding that Ed Martin was engaging Quantum  
12 Communications for him, personally?

13 A. No.

14 MR. SCHLAFLY: No further questions.

15 MR. BUTKOVITZ: I have a very quick  
16 follow-up.

17 | CROSS EXAMINATION

18 BY MR. BUTKOVITZ:

19 Q. So just staying on the exhibit we were just  
20 looking at --

21 A. Okay.

22 Q. -- the response to request for admissions  
23 and interrogatories, the subsequent oral communication  
24 that's referenced here, was that a communication that  
25 was to you?

1 A. Let me just go back.

2 Q. I'm not trying to hide the ball. I think  
3 the answer -- I think it would -- correct me if I'm  
4 wrong --

5 MR. SCHLAFLY: Don't do that.

6 MR. BUTKOVITZ: I'm allowed. He's not my  
7 witness.

8 MR. SCHLAFLY: I guess.

9 BY MR. BUTKOVITZ:

10 Q. Okay. But the communication was to you?

11 MR. SCHLAFLY: Objection. Argumentative.

12 MR. FINA: Well, I'm objecting. This has  
13 been asked and answered. I mean he's been asked who was  
14 on this phone call, and he's answered it previously. It  
15 was he, Gerow, and Martin, and maybe -- he can't  
16 remember anybody else.

17 MR. BUTKOVITZ: Those are the people on the  
18 first conversation.

19 BY MR. BUTKOVITZ:

20 Q. To the extent there was a second  
21 conversation, do you recall whether that was a call or  
22 communication to which anyone other than you and Ed  
23 Martin were a party?

24 A. Yeah, I didn't have that many one-on-one  
25 calls with Ed, other than usually to set up calls

1 because to track him down, and say, okay, he was, like,  
2 let's do the call at so-and-so, and then we got a  
3 regular time to do it. But I don't -- I don't recall if  
4 it was -- whenever we were talking about anything  
5 larger, including money or anything like that, it was  
6 usually the three of us on the phone.

7 Q. Well, do you know if this was a scheduled  
8 call, or whether this -- whether Ed Martin just called  
9 you right up?

10 A. I think that this call was a scheduled call  
11 or we reached out to him. I can't -- I can't remember.  
12 But that was for the clarification on the agreement.

13 Q. So to the extent that you agree with that  
14 last sentence, what's the basis for your assertion that  
15 Martin orally agreed on behalf of Eagle Forum, the  
16 extent that you're asserting that it's on behalf of  
17 Eagle Forum, the 501c4?

18 A. Well, as I said, it was kind of mixed  
19 together. So, you know, when you're having a  
20 conversation about what you're doing, you wouldn't --  
21 you know, you didn't use the acronym. We used -- Ed  
22 would refer to Eagle Forum. We referred to Eagle Forum.

23 Q. So is it your testimony that this call on or  
24 before October 21st, Ed Martin said something -- may  
25 have referred to Eagle Forum and someone may have

1 interpreted that to mean Eagle Forum and EFELDF?

2 A. I can't -- I can't recall that.

3 Q. Do you recall whether Martin represented  
4 himself to have authority to act on behalf of Eagle  
5 Forum, the 501c4, prior to October 21st, 2016?

6 A. I don't recall because I know that was all  
7 being -- it was a big -- there was a fight about that.  
8 And that was what was in litigation, as well. I don't  
9 remember if he was removed before that, after that. I  
10 can't -- I'd have to go back and review all of those  
11 documents.

12 Q. But it's also accurate that you never  
13 expected to receive payment or provide services to Eagle  
14 Forum, a 501c4?

15 A. Correct, as I testified earlier.

16 MR. BUTKOVITZ: No further questions.

17 MR. SCHLAFLY: No further questions.

18 RECROSS EXAMINATION

19 BY MR. FINA.

20 Q. Just to clarify that last question, I  
21 believe -- is it fair to say your earlier testimony is  
22 that you did not expect to receive payment from Eagle  
23 Forum, which is different from providing services to  
24 Eagle Forum?

25 A. Yes. I think that's -- that's accurate.

1       But just to -- if I can just clarify this a little bit,  
2 just so we're not -- I understood we were working for Ed  
3 Martin and the -- kind of the -- the Phyllis Schlafly  
4 team, if you want to call it that. We were not working  
5 with -- which would be oftentimes referred to as Eagle  
6 Forum, as opposed to specifically Anne Cori. We were  
7 not working for Anne Cori or the gang of six. We were  
8 working for Ed Martin and that team. Because it -- does  
9 that help? And the term Eagle Forum gets thrown around  
10 --

11           Q.        Yeah.

12           A.        -- on both sides.

13           Q.        Is it fair to say that there was a time when  
14 multiple entities, whether they were comprised of an  
15 individual or groups of individuals, were all claiming  
16 to govern or have control of Eagle Forum?

17           A.        Yes.

18           Q.        Okay. And isn't it fair to say that you  
19 entered in to a relationship and agreement with Ed  
20 Martin as the primary contact person --

21           A.        Yes.

22           Q.        -- at a time when these multiple entities  
23 were claiming to control Eagle Forum?

24           A.        Yes.

25           Q.        And isn't it true that when you entered into

1 the agreement with Mr. Martin, he was the president of  
2 Eagle Forum?

3 A. That is my recollection.

4 RECROSS EXAMINATION

5 BY MR. BUTKOVITZ:

6 Q. I'm trying not to go all day with this. But  
7 -- I'll just ask one question.

8 A. That's all right.

9 Q. I think I can do it in one. Were you --  
10 following up on your Counsel's question, were you aware,  
11 at this time, in September and October of 2016, that  
12 there were conflicting claims to authority and control  
13 over those organizations?

14 A. Yes.

15 MR. BUTKOVITZ: No further questions.

16 MR. SCHLAFLY: No further questions.

17 (At 12:46 p.m., the proceedings were  
18 concluded.)

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1 C E R T I F I C A T I O N  
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I, Colleen V. Wentz, RMR, CRR, hereby certify  
that the proceedings and evidence noted are contained  
fully and accurately in the notes taken by me during the  
course of this deposition, and that this is a correct  
transcript of the same.

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Colleen V. Wentz, RMR, CRR  
Court Reporter, Notary Public  
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